

MONTANA LEGISLATIVE HISTORY

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AVAILABLEChapter 23 19 95Bill H _____ S 96 Original bill & history C

H. Committee on <u>Highways + Transportation</u>	S. Committee on <u>Highways + Transportation</u>
Hearing Date(s) <u>Feb 15</u> ✓ <u>C</u>	Hearing Date(s) <u>Jan 19</u> ✓ <u>C</u>
_____ <u>C</u>	<u>Jan 24</u> ✓ <u>C</u>
_____ <u>C</u>	_____ <u>C</u>
_____ <u>C</u>	_____ <u>C</u>
Date Out <u>Feb 16</u> ✓ <u>C</u>	<u>Jan 24</u> ✓ <u>C</u>

Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

SB 94

INTRODUCED BY L. NELSON, ET AL.

CLARIFY LAWS GOVERNING WRITE-IN CANDIDATES

1/11	INTRODUCED		
1/11	FIRST READING		
1/11	REFERRED TO STATE ADMINISTRATION		
1/17	HEARING		
1/26	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/27	2ND READING PASSED	49	1
1/28	3RD READING PASSED	43	2
	TRANSMITTED TO HOUSE		
1/30	FIRST READING		
1/30	REFERRED TO STATE ADMINISTRATION		
2/06	HEARING		
2/22	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/01	2ND READING CONCURRED AS AMENDED	97	0
3/03	3RD READING CONCURRED	99	0
	RETURNED TO SENATE WITH AMENDMENTS		
3/07	2ND READING AMENDMENTS CONCURRED	49	0
3/08	3RD READING AMENDMENTS CONCURRED	48	0
3/09	SIGNED BY PRESIDENT		
3/11	SIGNED BY SPEAKER		
3/13	TRANSMITTED TO GOVERNOR		
3/15	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 143		
	EFFECTIVE DATE: 10/01/95		

SB 95

INTRODUCED BY BISHOP, ET AL.

REVISE REQUIREMENTS FOR OBTAINING A HEARING AID TRAINEE LICENSE

1/11	INTRODUCED		
1/11	FIRST READING		
1/11	REFERRED TO BUSINESS & INDUSTRY		
1/16	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
1/23	HEARING		
1/28	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/30	2ND READING PASSED	50	0
1/31	3RD READING PASSED	48	0
	TRANSMITTED TO HOUSE		
2/01	FIRST READING		
2/01	REFERRED TO BUSINESS & LABOR		
2/10	HEARING		
2/10	COMMITTEE REPORT—BILL CONCURRED		
2/21	2ND READING CONCURRED	92	4
2/22	3RD READING CONCURRED	96	2
	RETURNED TO SENATE		
2/28	SIGNED BY PRESIDENT		
3/02	SIGNED BY SPEAKER		
3/02	TRANSMITTED TO GOVERNOR		
3/03	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 72		
	EFFECTIVE DATE: 10/01/95		

SB 96

INTRODUCED BY FOSTER, ET AL.

REVISE LAWS RELATING TO TRAFFIC SPEED ZONES

1/11	INTRODUCED		
1/11	FIRST READING		
1/11	REFERRED TO HIGHWAYS & TRANSPORTATION		

1/19	HEARING		
1/24	TABLED IN COMMITTEE		
1/28	TAKEN FROM COMMITTEE AND PLACED ON 2ND READING	27	16
1/30	2ND READING PASSED AS AMENDED	29	20
1/31	3RD READING PASSED	26	22
	TRANSMITTED TO HOUSE		
2/01	FIRST READING		
2/01	REFERRED TO HIGHWAYS & TRANSPORTATION		
2/15	HEARING		
2/16	COMMITTEE REPORT—BILL CONCURRED		
2/21	2ND READING CONCURRED	97	0
2/22	3RD READING CONCURRED	97	2
	RETURNED TO SENATE		
2/28	SIGNED BY PRESIDENT		
3/02	SIGNED BY SPEAKER		
3/02	TRANSMITTED TO GOVERNOR		
3/06	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 73		
	EFFECTIVE DATE: 10/01/95		

INTRODUCED BY FOSTER

ALLOW AN INCOME TAX CREDIT FOR HOUSEHOLD AND DEPENDENT CARE
SERVICES BASED ON INTERNAL REVENUE CODE

1/11	INTRODUCED		
1/11	FIRST READING		
1/11	REFERRED TO TAXATION		
1/12	FISCAL NOTE REQUESTED		
1/17	FISCAL NOTE RECEIVED		
1/17	FISCAL NOTE PRINTED		
1/25	HEARING		
3/21	COMMITTEE REPORT—BILL PASSED AS AMENDED		
3/25	2ND READING PASSED	48	0
3/27	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
3/28	FIRST READING		
3/28	REFERRED TO TAXATION		
3/31	HEARING		
4/04	TABLED IN COMMITTEE		
	DIED IN COMMITTEE		

INTRODUCED BY FOSTER

PROMOTE CAMPAIGN REFORM AND INTEGRITY AND CREATE CIVIL
OFFENSE OF POLITICAL LIBEL

1/11	INTRODUCED		
1/11	FIRST READING		
1/11	REFERRED TO STATE ADMINISTRATION		
1/17	HEARING		
2/20	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/21	2ND READING PASSED AS AMENDED	49	1
2/22	3RD READING PASSED	50	0
	TRANSMITTED TO HOUSE		
2/27	FIRST READING		
2/27	REFERRED TO STATE ADMINISTRATION		
3/08	HEARING		
3/20	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/30	2ND READING CONCURRED	90	7
3/31	3RD READING CONCURRED	94	4

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION
COMMITTEE ON HIGHWAYS & TRANSPORTATION

Call to Order: By CHAIRMAN LARRY TVEIT, on January 19, 1995, at
1:00 p.m. in Room 410

ROLL CALL

Members Present:

Sen. Larry J. Tveit, Chairman (R)
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)
Sen. Mack Cole (R)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Arnie A. Mohl (R)
Sen. Greg Jergeson (D)
Sen. Linda J. Nelson (D)
Sen. Barry "Spook" Stang (D)

Members Excused: None

Members Absent: None

Staff Present: Connie Erickson, Legislative Council
Carla Turk, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 51
SB 96
SB 104

Executive Action: SB 47
SB 51
SB 68

CHAIRMAN TVEIT announced that sponsor SENATOR TERRY KLAMPE had
recently notified him there would be no hearing on SB 51.

HEARING ON SB 96

Opening Statement by Sponsor:

SENATOR MIKE FOSTER, Senate District 20, Townsend, stated that he
was primarily appearing before the Committee on behalf of the

small town of Neihart in Cascade County, which was a section of his District. He further stated that in the 1993 Session he had brought a bill before the Committee which provided a community the ability to reduce speed limits whenever a highway passed a senior center. He contended that the Committee had shown strong support for the bill which eventually became law. He contended that some interesting things had happened since passage of that bill and as a result, he was bringing forth SB 96 to address the on-going problem. He contended the community had been dealing with the Montana Department of Transportation (MDT) for several years in an effort to reduce the speed limit through their town. He asked the Committee to keep in mind that Neihart was at the base of King's Hill, on a narrow highway, with houses and businesses virtually right next to the highway. He explained that because speed was a potential killer for these people, the issue was very important to the community. He stated that some Neihart area residents were present to testify. He attested the town presented a unique situation where residences were right up next to the highway. The citizens had brought some pictures to give Committee Members an idea of what it looked like in the winter.

SENATOR FOSTER said the bill passed last Session had allowed them to reduce the 40-mph speed limit through Neihart by 15 percent within a certain distance of the Senior Center. He said the Department had informed them that desired speed limit changes through town could possibly be achieved with a request for a speed study. He said the town decided the study was a good idea if that was what was required to have the speed limit reduced. He said they proceeded with having a speed study conducted, and the Department determined that the speed limit change needed was to raise it from 40-mph to 45-mph. He stated that it could be imagined how Neihart residents were outraged by the decision.

SENATOR FOSTER said SB 96 stated that if a local government requested a speed study, for the purpose of determining whether they could get their speed limit reduced, the Department could not use that speed study to increase the speed limit. He said the second portion of the Bill dealt with the ability to reduce the speed limit near a Senior Center or a school, and identified the language on page 2, line 8 as stating two thousand feet. He conveyed his belief that the Department had decided it should be five hundred feet, and the Bill language stretched that out to two thousand feet and changed the amount of reduction from 80% to 70%. He said the first section of the Bill was made retroactive so the speed limit could be reduced to 40-mph as it had been. He said there were others present who would like to speak to the Bill and he would be available for questions and reserved the right to close.

Proponents' Testimony:

Dianne Johnson, Transportation Demand Management Coordinator for the City of Helena and for Lewis and Clark County, said she was present on behalf of both organizations. She stated Section two of the Bill basically dealt with the establishment of special speed zones around schools and Senior Citizens Centers where there were marked cross walks. She said that currently streets and highways were designed to be safe for travel at a specific predetermined speed and the safety factor was built in, but they were actually designed to safely carry a higher rate of speed. She contended that with this knowledge people were comfortable and tended to speed up. She said that when a municipality decided traffic was traveling at a speed greater than was desired, they could order an Engineering Traffic Analysis. She related that her Organizations currently hesitated to order an analysis, because they realized the chances were that the speed limit would be raised when they were actually asking the opportunity to implement traffic calming measures. She said this could be accomplished by designing projects where landscaping, medians, or other items were used to help control and slow traffic in local areas. She said another speed study could then be taken, and they could realize accomplishment of a lowered speed. She understood Department policy was to use the eighty fifth percentile speed, which was the speed that 85% or less of the motorists on that highway were traveling. She maintained that just because she drove faster on a roadway, it didn't become safer for children, bicyclists, elderly, or other motorists. She maintained they would like the opportunity to be able to help build and implement some of these traffic calming measures, which helped lower the speed naturally rather than raise it. She said it seemed counter productive to raise the speed limit every time a speed study was done just because the traffic had speeded up. She contended the speed limit could eventually rise to 80-mph or 90-mph because the road felt comfortable to drive at that speed. She said her groups were asking for the ability to request studies without the risk that the limit would be raised.

Ms. Johnson, stated Section 2 specifically asked to set distances for speed zones around schools, Senior Citizens Centers, etc. She said the Section also provided for lowering speeds in those zones to not less than 70% of the posted speed, which was typically close to the design speed, instead of the current 80%. She said they had a school located within a couple hundred feet of the roadway, and there had already been fatalities there. She stated the situation was dangerous, and they were asking to extend the maximum distance to two thousand feet on either side and sign the area at 70% to allow the 40-mph zone to be posted at 35-mph. She said she understood it was an enforcement problem. She said people typically tended to try slowing down when they saw a school zone sign, but when the sign was within 500 feet of the school, it was easy to just coast through. By the time the vehicle reached 45-mph, the vehicle was through the zone and off again. She said they needed the ability to slow drivers to the

posted 45-mph long before they reached the school. She maintained that by posting the additional 5-mph slower, it would be safer for seniors, children, and bicyclists who may be crossing the road. She said the duties of her position were to try implementing things to get people to car pool, bike, and walk, and it was hard to do when people in these types of areas weren't provided adequate safety. She said that since it was a dangerous situation around schools, especially elementary ones, her Organizations were asking for the Committee's support on SB 96.

J. D. "Sonny" O'Neill said he lived in Neihart and had brought pictures for the Committee to pass around. He stated all of the of the pictures had been taken standing on the highway. He said that when he thought of the MDT, he thought of Mr. Dusek, a traffic engineer who the town had dealt with over the past. He said Mr. Dusek had stated at a meeting two years ago "Safety is not my concern, moving traffic is my concern", and "If we keep having traffic studies in Neihart, every time we have one I'll raise the speed limit".

Mr. O'Neill said that from the last weekend of November until April, approximately two hundred to a thousand cars, trucks, and busses pass south through Neihart between the hours of 8:30 a.m. and 10:00 a.m., enroute to Showdown Ski Area. He said that at about 3:30 p.m. those vehicles all pass back through town on their return route. He said the vehicles passed within 30 to 50 feet of people's front porches at the rate of 45-mph, 50-mph, or 60-mph. He said residents didn't appreciate the situation, as the houses were built long before the highway had been built, but hadn't been able to correct the situation. Mr. O'Neill described numerous accidents which had occurred in Neihart over the past ten years, reported sizeable property damage, and stated it was fortunate no children or pedestrians had been hit. He reported that when traveling they had passed through a number of towns smaller than Neihart and the speed limit through those towns had been 25-mph. He stated he would really like to know why those towns could get lower speed zones when Neihart could not.

Donalene O'Neill said they lived at Neihart, a quaint little town which nested down in a valley, where there was only room for one street to go through town, and that happened to be Highway 89. She said there were about 30 full-time families, and the homes were about 50 feet from the center line of the highway. She reported that Neihart residents had appeared before the Legislature in the past. She explained they had once appeared regarding passage of a bill allowing cities and towns to pass their own speed limits, but when they tried to enforce that legislation they had been told the bill had no affect. She said they had appeared last Session to lower the speed limit past the Senior Center and that had been accomplished, but since then the speed limit through Neihart had been raised. She said Mr. Dusek had come to Neihart and informed the community that the survey showed that 85% of the drivers going through Neihart traveled at

40-mph. She said **Mr. Dusek** had told them the MDT could allow the speed zone to be set at five miles over or five miles under the posted speed limit. She reported that the Department had chosen to raise the speed limit by 5-mph to 45-mph. She expressed her displeasure and maintained the speed limit had been raised, while Neihart representatives had sought to have it lowered for safety's sake. She said that when safety had been questioned, **Mr. Dusek** had told them that "his Department was in charge of traffic flow and safety is not our concern". She questioned whose concern it was, and asked if they had to wait until someone was killed before they could get something done. She said that a gentleman accompanying **Mr. Dusek** had suggested the town should pursue obtaining State money and put sidewalks through town, but she maintained there wasn't enough room for sidewalks. She reported that the three men from the Department had been asked to look at the area being talked about, so they could see the problems firsthand. She also questioned why the town should have State money for something like sidewalks in Neihart.

Ms. O'Neill said **SENATOR FOSTER** had written her a letter, dated September 19, 1993, stating he had been unable to convince **MDT Director, Marvin Dye**, that the speed limit study, changing the speed limit to 45-mph all the way through town, was flawed and should be discarded. She stated **SENATOR FOSTER** wrote that **Mr. Dye** had chosen to rely on the findings of experts rather than the concerns of citizens. **Ms. O'Neill** explained they needed the Bill, so they could ask for a survey without risking that their speed limit would be raised once again. She thanked the Committee for their time and consideration.

Mike Bear said he was a poet, artist, and philosopher who had lived in Helena since about 1980. He reported receiving unemployment and welfare. Had a college degree and a master's degree. He reported having hitchhiked around the county between 1976 and 1980 and had some jail, and psychiatric experiences. He said he was for a slow down driving project and generally supported the Bill. He reported having written to the Division of Highway Traffic Safety, Governor, and the House Committee on Transportation. He handed out copies of his testimony, told of his promotional efforts for the project, and read the material contained in (**EXHIBIT # 1**).

Opponents' Testimony:

Marvin Dye, Director of the Department of Transportation, said he was appearing in opposition to SB 96 and read his testimony in (**EXHIBIT # 2**). He reported that the MDT and Highway Commission worked well together to establish the appropriate speed limits which applied the greatest margin of safety for users of the highway system. He said that occasionally communities believed the approved limit should be lower, and an unbelievable amount of pressure came forth to have that limit lowered. He stated the MDT had better things to do than simply respond to such

criticism. He said he could tell the Committee, quite frankly, that they sometimes felt like throwing in the towel, giving in, and lowering the speed limit. He reported the Department did not give in because it wasn't the right thing to do. He maintained that the Department was totally committed to the safest possible highway system and this Bill would not be in the best interest of the citizens of Montana.

Tom Barnard, Chief Engineer with the Montana Department of Transportation, said he was appearing in opposition to SB 96. He handed out numerous pieces of material which were numbered (EXHIBIT # 3, 3A, 3B, 3C, 3D, 3E, 3F, 3G, & 3H). He stated he would be referring to the documents as he spoke. He said that first, he would like to clearly state to the Committee that safety was their primary concern, and he took exception to statements that they weren't concerned about the citizens of Montana. He stated the reason they were opposed to SB 96 was because they were concerned about the safety of the people, and he thought that when he went through the material, the Committee would see what the cold hard facts were and agree with the Department. He read written testimony in (EXHIBIT # 3), and stated he wished to speak to the specific changes to current speed zone laws which the Bill called for. He wanted everyone to understand the basic issues of speed zoning. He said the issues were very critical and thought it necessary to take the time to go over the issues. He stated that first, all speed zone recommendations were based on traffic and engineering investigations which looked into such issues as the 85th percentile. He said the 85th percentile was the speed at which 85% of the drivers were driving or less. He said that if the 85th percentile was 55-mph, that meant 85% of the drivers who passed that point were driving at 55-mph or less, and the other 15% were traveling above that speed. He stated the 85th percentile was based on the principle that 85% of the drivers were safe and prudent and adjusted their speed to the conditions, regardless of what the posted speed limit was. He stated, once again, that it was a very important factor but it was not the only factor, as they also looked at the pace. He explained that to have the safest situation possible, you wanted the majority of the drivers driving very nearly the same speed. He stated the pace was the ten mile an hour increment or speed in which the majority of the drivers were driving. He said that typically it was found that the upper pace, the ten mile an hour pace, was very close to the 85th percentile. He reminded everyone that it was important to have as many vehicles as possible within that pace range. He stated that roadside conditions were also given serious consideration when addressing speed zone, and said that was why the Department goes out and spends a considerable amount of time every time we do a speed zone study. He said they didn't just drive out and say, 'It looks like it ought to be 35". He said they considered all of the existing facts present, such as the pace, the accident record, the 85th percentile, and other provisions such as the presence or absence of roadside parking or, the presence or absence of pedestrians. All of these factors

and others have to be considered in order to set the safest speed limit. He said there was a common misconception that posting reduced speed limits reduced the speed of vehicles and said it was not true. He said a second misconception was that reduced speed limits improved safety, and again stated that in a majority of cases that was not true, but often the opposite was true. He said that setting arbitrarily low speed limits increased accidents.

Mr. Barnard asked the Committee to follow the material he'd provided, and said he would show the information they had to back up his statements. He said (EXHIBIT # 3A) was an article from a PUBLIC WORKS magazine written by a nationally known firm which was an expert in all traffic engineering matters. He said the title of the article was "Traffic Engineering Myths and Realities" and asked them to note the highlighted area. He said the article stated two things; "Before and after studies consistently show there is no significant change in speed after posting another speed limit" and said "Speeding itself is not the major cause of accidents. In fact there is a consensus that many speed related accidents result from both excessively low and excessively high speed limits". He said (EXHIBIT # 3B) was a copy of pages from the MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES, which was a nationally accepted traffic engineering guide and policy book that had been adopted by the State of Montana. He said it contained two particular issues; he said the highlighted area talked about the need for engineering steps, and the second page referred to speed limits, and said that "They shall display the limits established by law, or by regulation after an engineering and traffic investigation has been made in accordance with established traffic engineering principles". He stated the key word was "shall", and said it did not state "may". He said the article also explained what needed to be considered, as he had previously mentioned, in establishing speed zones.

Mr. Barnard said (EXHIBIT # 3C) showed the relationship between accident rates and mean speed, which was really the beginning of the meat of the issue. He stated mean speed was the speed at which 50% of the drivers were traveling in excess of that speed and 50% were driving below, which made it the average speed. He said that typically the 85th percentile was six or eight miles an hour above the mean speed, so if you looked at the graph where the yellow line is plotted, you would see that the lowest accident rate was six, eight, ten miles an hour above the mean speed. He reported that as very close to the 85th percentile. He said that if you went below that percentile, the accident rate rapidly increased, and likewise if you went above it, they rapidly increased. He said that (EXHIBIT # 3D) showed the comparison of the speeds before and after changing a posted speed limit; some were lowered and some were increased. He said that consistently these studies showed that you did not significantly change the speed of traffic. He stated that by looking at the graph you could quickly see what the speeds were after the speed limits were changed. He stated there was no significant change,

and in fact some of them went up after the speed limit was reduced. He said (EXHIBIT # 3E) was another study of the comparison of accident rates to mean speed from which you could project the 85th percentile. He said the information again reinforced the previous one, but stated it was a separate independent study. He said the material showed that at about ten miles an hour above the mean speed, which is very close to the 85th percentile, you got the lowest accident rate, and that rate again increased when you went above or below that 85th percentile.

Mr. Barnard said a common statement was often made that Montana was different, and said Montana was not different. He said before and after studies conducted in Montana confirm the very same thing that was defined here as to the effect on speed. He presented (EXHIBIT # 3F) and confirmed the earlier fact by presenting the speed profile on Neihart itself. He said every column was the 85th percentile, and the first one was in the fall of 1979. Below that were listed the 85th percentile speed of various locations through town. He said that the speed limit which was in place at that time was listed at the bottom. He said the speed limit was 55-mph outside of town. Entering town from both directions the limit broke down to 45-mph, and then through town it was 35-mph. He said what was significant to note was that when the area through the middle of town had a speed limit of 35-mph, the post office area had an 85th percentile of 40-mph and around the Senior Citizens Center it had been 42-mph. He said that after the speed limit through town was raised to 40-mph, the 85th percentile during the summer of 1984 near the post office had dropped one mile an hour, and the Senior Citizen Center area had increased one mile an hour. He said that for all practical purposes, increasing that speed limit did not increase the speed of traffic. He said that the column pertaining to the winter of 1993 showed the speeds beginning to increase even though the speed limit had remained the same. He said the reason for that change was that between the summer of '84 and the winter of '93, a highway improvement project had been put through town which improved the pavement. He said that possibly other changes that were made caused the public to feel that it was safer to drive at a higher speed. He said the specific changes proposed in the law were that if a local requested a speed limit study, for the purpose of lowering it, the Commission could not increase the speed limit under consideration as a result of an investigation. He asked the Committee to look at (EXHIBIT # 3G) and stated it showed examples of where unrealistically low speed zones were in place, and stated Neihart was listed. He said the numbers shown tell you the percentage of the drivers that were exceeding the posted speed limit in various locations through town. He said the list contained other locations where speeds were unrealistically low, and stated the data showed that as high as 95% of the drivers were violating the posted speed limit. He said that at the same time a majority of the drivers were violating the speed limit in these areas, the accident rates were exceptionally low. He said that when they did a speed zone study

and found the posted speed limit was unrealistically low, they had an obligation to increase that speed limit. He said that all the factors were considered. They found that the safest speed zone was the higher speed zone. They had an obligation to increase the speed limit. He said that was exactly what they found at Neihart. He stated that that posting a reasonable speed limit will reduce accidents even though the speed limit may be higher.

Mr. Barnard explained that prior to the study, all local governments were given the opportunity for a presentation explaining the principles of speed zoning, and then asked if they wanted to proceed with the study. He said Neihart also had been given that option. He reported that the local governments were clearly advised that speed zones may either go up or down. He maintained many decreases in speed zones were recommended, as well as increases, and stated the recommendation for a speed zone was the one they felt was safest.

Mr. Barnard said the Bill's second proposal for change was to decrease the speed limit within an area of two thousand feet of the school or Senior Citizens Center. He offered (EXHIBIT # 3H) and stated it was a map of the city of Helena. He said that by using a two thousand foot radius drawn around each school, virtually every street in Helena could have an arbitrarily low speed zone imposed upon them. He said those arbitrary speed limits would not improve safety and could very likely do the opposite. He explained that it would also create speed traps. He said another important issue, in regard to the two thousand foot radiuses, was that when drivers saw a speed limit sign they felt was unrealistically low, those drivers also needed to see something which reinforces the need for that low speed limit. He commented that if reinforcement is not seen with a block or two, drivers are apt to ignore the lower speed limit. He said that if signs were placed too far back, drivers tended to forget about the speed limit sign before reaching the area wishing to be protected.

Mr. Barnard said the third change proposed would allow local government to reduce the speed limit set by a traffic and engineering investigation to 70% percent, rounded down to the nearest whole number. He said this formula would allow a 55-mph speed limit to be cut to 35-mph, 45-mph to 30-mph, and 35-mph to 25-mph. He encouraged the Committee to refer to handouts which showed the accident rate versus mean speed, or 85th percentile, and plot out the effects those things would have on accident rates.

Mr. Barnard summarized by encouraging the Committee to kill the Bill on the simple basis that it did not promote safety, would very likely increase accidents, and would definitely create speed traps. He stated that some of the information he presented the Committee stated that speed zones which were 5-mph less than the 85th percentile made 25% of the safe and prudent drivers

violators. He continued that if the limit was posted 10-mph less than the 85th percentile, it made 60 to 70% of the safe and prudent drivers violators. He said these measures penalized safe drivers, increased road user costs, and when safe drivers got tickets, their insurance rates went up. He said the Bill also left the responsibility and liability for speed zones with the State of Montana, particularly the Montana Department Of Transportation, and yet gave the authority to local government. He said that if the Committee wasn't prepared to kill the Bill, he suggested modifying it to give the responsibility to local government and require them to establish speed zones based on traffic engineering and investigations, as the State was required to do. He said the Bill should require that local governments have someone qualified and experienced to establish those speed zones they were going to have liability for. He summarized his suggestions by stating that the responsibility for studies, authority for establishing speed zones, and the liability for those actions needed to all rest with the same entity. He stated his availability to answer any questions the Committee may have.

Harry Lauer, Department of Justice, Highway Traffic Safety Division, said the Division's basic concern, in reference to the Bill, was the possibility of not having the ability to raise speed limits when it was needed. He showed the Committee a very large aerial map, which he said was an example of a study they had just completed. He stated the study was done at the request of local officials and reviewed by County Commissioners, the public, and people who lived along the road. He said that all facets of local government had joined forces to help with the study by collecting the accident history, inventorying all traffic control devices, doing a "ball bank study" to determine the safe speed for every curve, and taking speed samples of the traffic. He pointed out areas on the aerial map which showed speed sample results of the 85th percentile and how they varied along the route, as well as the middle area with the accident history. He said that middle area showed a high accident history during night conditions with a high severity. He stated they had proceeded with the results of the study to try developing a traffic control system specific to the area which best related to safety and traffic operations for the public. He stated that analysis of the study resulted in increasing the speed limit along some portions of the road while leaving it the same in other portions. He said the solution was arrived at by a long lengthy review of concerned, involved, and experienced people who determined what was appropriate for this particular roadway. He said, therefore, legislation which would not allow such a process to take place would probably set up roadways which could potentially have speed traps, increase the accident rate, and basically not conform with the desires of a majority of the people. He stated having wanted to share the example with the Committee as it was recent related to the Bill, and showed the need to take more than just speed samples and state the 85th percentile was this. He said there were a lot more considerations used in these studies, even though the 85th

percentile was the first and most important approximation you worked from.

Mr. Lauer said his other concern with the Bill was regarding school crossings being proposed for two thousand feet. He said that a limit of two thousand feet tied the hands of an engineer, because two thousand feet may apply in some situations but not in others. He said there were schools which virtually didn't have students crossing streets, and smaller school zones that weren't ever occupied by children. He said that by actually setting a specific figure like two thousand feet, it may not be applicable in all situations and didn't allow them the latitude to make a decision.

Mr. Lauer said they did not know about the proposed 70% of the 85th percentile. He said he thought most states agree, as did The MDT, that speed limits in school zones were a concern and should be lower than the speed limit for the same roadway in different situations. He said he didn't know who would know what the right percent would be. He stated that when they did a study or took traffic samples, they took speed samples when the children were visibly present to get an idea of the speed which felt comfortable to drivers when children were there. He stated that gave them a potential idea of what the specific speed limit should be. He said that when they set speed limits for school zones, they were typically lower than the regular speed limit but were actually based on drivers' reaction to the situation. He said every situation was different, and concluded he was not able to support the Bill, because it tied everyone's hands in regard to doing a good job at their daily work place.

Tom Forseth, Chairman of The Montana Highway Commission, said they were the ultimate villains of this piece of legislation as the MDT had brought the Neihart situation to the Commission two years ago. He said the Commission had, given the supporting evidence, adopted the Department recommendations as far as speed zones were concerned. He said that beyond those facts, he believed the community had reduced the speed limit past the Senior Citizen Center, as they were allowed under the law. He reported the Commission was just a citizen commission, not bureaucrats; just people that did other things in their real lives. He said the Commission was called upon to make decisions as defined by law, and one of those was to make the ultimate decision on speed zones. He expressed the thought that the Commission had responsibility for the speed zone decision because the Department didn't want it. He stated it disturbed him to hear that citizens felt the Department was being arbitrary in their decision to raise the speed limit, but said he could see where some of that concern would come from. He said the Neihart situation was actually a neighborhood street which was also a U.S. highway, and he thought everybody felt discomfort when the street was fifty feet away with people driving 45-mph. He said he would feel uncomfortable if people were driving 10-mph over the speed limit on his street. He said that with a highway there

was a question of ownership, and contended that, in his mind, it was probably owned by everybody in Montana. He said there were thirty full-time families in Neihart, but the two hundred to one thousand vehicles a day were proprietors in their own way and were going to feel a residential type speed zone was an inconvenience to them. He stated that if law enforcement was used to back that slower speed zone up, you were speed trapping. He said it also had to be considered that other communities along the roadway in question had not been heard from. He posed there would be a problem with area business if their customers came down that hill and found themselves under intense scrutiny by law enforcement regarding a reduced speed limit. He stressed these as points needing to be considered before movement was made to essentially strip responsibility from the hands of citizen representatives of the State. He said removal to local representatives would naturally result in their first looking at local considerations without taking consideration for others in the State.

Questions From Committee Members and Responses:

SENATOR ARNIE MOHL asked what speed limit was felt to be appropriate through Neihart? **Sonny O'Neill** said he felt 35-mph through the entire town would be appropriate.

SENATOR MOHL asked if the speed limit had been 35-mph at one time? He stated there had been testimony regarding some near accidents, and asked if they occurred when the speed limit was 35-mph or when at 40-mph? **Sonny O'Neill** said the speed limit had once been 35-mph, and the potential accidents had occurred when the limit was at 45-mph and 40- mph.

SENATOR MOHL asked if there had been near accidents when the limit was 35-mph? **Sonny O'Neill** said that was quite awhile ago, and he couldn't answer that.

SENATOR MOHL stated he felt that was an important question which needed to be answered.

SENATOR LINDA NELSON asked what size Neihart was? **Sonny O'Neill** said it was approximately a mile long through the valley.

SENATOR NELSON asked if they had a deputy in their town or would they be counting on the Highway Patrol for enforcement? **Sonny O'Neill** said they seldom saw a Highway Patrolman or a deputy because Neihart was clear out on the county line. He stated they were a long way from nowhere, and signs were the only protection they had. He said that whether there was enforcement or not, they were still the only protection and people did pay attention to signs.

SENATOR NELSON asked if they indeed planned to count on people paying attention to the signs? **Sonny O'Neill** answered yes.

SENATOR MACK COLE asked if Neihart was looking for the limit to be year round, or was there a time when the situation was worse in the winter or summer? He expressed a desire to know if the seasons had anything to do with the problem? **Sonny O'Neill** said it was worse in the wintertime because there was a solid line through the entire town and it was covered with ice and snow. He stated that in summertime the passing was not so terrible, but there was still a lot of traffic. He said their recommendation would be for the speed limit to be 35-mph year round.

SENATOR BARRY "SPOOK" STANG referred to testimony which stated the Commission was responsible for setting these speed limits by law, and asked if that was state or federal law? **Tom Forseth** said he thought it was in Montana Codes Annotated, and said one of their duties was passing on speed zone changes.

SENATOR STANG asked if the 85th percentile rule was a state law or was it a federal mandate? **Tom Forseth** said he was not sure whether that was a mandate at all. He stated it was just a procedure used to bring some sort of scientific objectivity to setting the speed limits.

SENATOR STANG asked if a study was requested on the State's Interstates and Secondary Highways and it showed that the speed limit should be 65-mph and 75-mph, why couldn't the State set their own speed limits on the Secondary roads? **Tom Forseth** responded that was mandated by the federal government through the fact that the State received highway funds from the federal government, which would be withheld if the speed limit was raised.

SENATOR STANG said that if the State was going by their rules to set these speed limits, then why didn't they go by their own rules to set our speed limits? **Tom Forseth** said he could see what the Senator was speaking to and stated that was a good question.

SENATOR RIC HOLDEN said he wished to speak to the Bill, not the particular circumstance which brought it. He said the Bill stated that if a local authority wanted a study done it could be requested; but testimony had stated that if a study was done, the Department would have to recommend raising the speed limit. He maintained that in reading the Bill, it merely said that if the local authority had a problem with the speed limit, they ask the Department look at the situation and have it studied. He said that after the study, the Department recommended that they thought the limit needed to be raised, and the residents were just asking that it not be raised. **Tom Barnard** said he had tried to point out that if their study found the speed limit was unrealistically low, there were facts which showed that created accidents, and therefore we have an obligation to raise it. He stated they were not being fair to the traveling public if they didn't raise the limit. He said that if it was shown that by

raising the limit you reach your safest conditions, we have an obligation to do it.

SENATOR HOLDEN said he thought there was a need to say common sense ruled in some situations. If there was an outcry of people stating the speed limit needed lowered he didn't think that would infringe on the rights of other people. He stated that if people living in the area said they needed the speed limit lowered, and expressed the thought that SB 96 made that point, then he didn't think it was going to be any detriment to society. **Tom Barnard** said again, if lowering the speed limit caused an unrealistic speed zone, it brought up all the factors he mentioned. He said it does not improve safety, very likely it causes accidents, and causes speed traps. He asked to not create that situation and to find solutions to the problems which existed, not some arbitrary speed limit which was going to be contrary to what you wanted accomplished. He suggested doing improvements in the area, like cleaning up the parking or other things, as he felt there were a lot of other opportunities for improvement than establishing arbitrary speed limits.

SENATOR STANG asked what the possibility would be on weekends when there was heavy traffic going through the speed area of putting extra Highway Patrolmen patrolling the area, so that the existing speed limit was at least enforced? He asked if it would be a big problem to have a highway patrolman spend a little time there on weekends and make people slow down? **Colonel Reap** said that would be a very good idea and they did try to do that. He said the problem the Patrol had, particularly during that time of the year, was that the Officers many times were on cases, accidents, and other calls. He said they did try to patrol that particular road and all roads that were off the main Interstate. He stated that the Officers who covered that area were from Great Falls; one Officer was assigned in White Sulphur Springs and one in Belt. He said those Officers could get into that area at times, but said a limited number of Officers was the main the problem. He said they if they were available, they certainly would have Officers in the area. He stated knowing that the area was patrolled at times, particularly during the ski season.

SENATOR NELSON stated that **Mr. Dye** had indicated he felt like having to hassle with these things was kind of a waste of time. She asked how often do you get asked to lower speed limits? **Marvin Dye** said he didn't know how often. He stated that in his two years in the Department he thought they had gone through four speed zone studies that he could remember. He said that two of those had frankly resulted in numerous discussions with **SENATOR FOSTER**, plus an accumulation of letters to the Department, Governor, and everyone who would listen and visits made to the Governor's Office by those parties. He reported that a lot of effort was expended to get back to the people, stating why the limit had been raised. He said they had known it would be a controversy, and after the Department did the study they had the opportunity to have the Northwest Traffic Institute of Montana

review everything which had been done, just for a second opinion. He said that everything they had done was absolutely clean. It still took a whole lot of effort to communicate why we did what we did, and reported they had spent a lot of time doing it.

SENATOR NELSON asked if the Department was at all afraid that you would be setting precedent by just allowing these people to do what they want to do? **Marvin Dye** stated he guessed, like he had said, at times they felt like throwing up their hands and just letting it happen. He said that would remove a lot of burden from the Department because people wouldn't be calling the Department when they were dissatisfied with speed zones which were set by the Commission. He maintained that would not be looking out for the best interest of Montana's citizens if we allowed that to happen. He said that everything you read definitely stated that the engineering and methods the Department used were deliberately made to establish speed zones, so they continued to fight the battle. He said that from a liability standpoint, when there are accidents on our State Highways there was always an issue that we were liable for it. He explained it would not take a lot of imagination to see what was going to happen when there were accidents in areas where the speed limit was set arbitrarily low.

Closing by Sponsor:

SENATOR FOSTER thanked the Committee for the hearing and said he appreciated **Mr. Forseth's** coming. He expressed the thought that it was very good for the Chairman of the Highway Commission to take time out his life to come and tell us how we're wrong. He said he would have to be honest with the Chairman and tell him that, even though he said he was representing the citizens, if I represented the citizens like the Highway Commission had on this issue, I wouldn't be here. He said that **Director Dye** was correct, there had been a lot of conversations and he personally thought **Mr. Dye** was doing a great job. He contended there had been many conversations and letters exchanged, letters which even included Senator Burns, as this issue had gone on for a long time. He said it was frustrating to have the voice of the people rarely heard. He stated that when you listened to all of the different factors considered, which **Mr. Barnard** listed, you didn't hear the factor regarding the people who have to live there. He contended that others didn't care as they were talking about safety.

SENATOR FOSTER maintained that the Bill was just going to take the situation back to what it was. He said one of the keys to some of the discussion he had heard was that authority was going to be taken away. He stated that was only in instances where a local government requested the ability to reduce the speed limit. He said that if the study showed that the speed limit shouldn't be reduced, then that was where the authority would lie. He related having driven through other, less dangerous, towns which

had lower speed limits, and said it was amazing this very dangerous town couldn't also have a reduced speed limit. He said he thought the Bill would allow the people to have a voice in getting that speed limit reduced to where personal danger wasn't so great. He said that all he was asking was that the people of Neihart be listened to because the people themselves would tell the story best.

ACTING CHAIRMAN SWYSGOOD ANNOUNCED THE HEARING ON SB 96 AS CLOSED.

HEARING ON SB 104

Opening Statement by Sponsor:

SENATOR DON HARGROVE, SD 16, Belgrade, said he had the pleasure of bringing SB 104 which had been requested by the Montana Department of Transportation (MDT). He said it was basically a housecleaning bill which he didn't believe would take you very long. He said that when the Intermodal Surface Transportation Efficiency Act (ISTEA) came into affect in 1991, it made some changes which basically incorporated all surface modes of transportation under the Department. He said the Department had been busy cleaning all those things up for the last three years now. He said one thing which had been omitted was the Commission; and they were still called the Highway Commission. He said the purpose of SB 104 was to change the name of the Highway Commission to the Transportation Commission. He said the Bill established a few new responsibilities for the Commission and provided for some authority to transfer funds. He said the those funds were now administered by the Department. He stated there was a little clean up language in the Bill, but was basically to provide for the Commission by bringing it under the ISTEA Act. He said he would leave further explanation to others who were present to testify and reserved the right to close.

Proponents' Testimony:

Pat Saindon, Administrator, Transportation Planning Division, Department Of Transportation, reiterated that when the Department Of Transportation was originally established in 1991, it was intended that the Department operate as a modally independent department. She explained that each particular transportation mode sort of operated independently. She said that after the Department was formed, ISTEA required that departments of transportation be intermodally operated. She reported that during the past three years the Department had been working very hard, when determining transportation issues, to look at all transportation modes. She said SB 104 was intended to change the name of the Highway Commission to the Transportation Commission. By so doing, it would also give them the authority to administer

DATE 1-19-95

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How to END country hwy. crashes, 50mph limit at night straight-aways 155 with original **SENATE HIGHWAYS**
25mph no view hill-tops; 20→45mph hwy. **CURVES** limits. Taking 50mph plus dark straight-
aways, 45 plus curves & hills days &/or nights causes dazes, attention fades & crashes as speeding
consciousnesses accumulate; the yearly statistical facts of dazes, casualties, continue to occur
in inexperienced, elderly, & other drivers. BILL NO. 5890

THE HWY SENSORY ACCUMULATIONS
& NATURAL + MIXED ENVIRONMENTAL
CONCIOUSNESSES (NO STANDING DEER STOPPING

ENDING DRIVING CASUALTIES & UNDERSTANDING SIMPLE & RIGHT PSYCHOLOGY.

GOOD DRIVING HABITS, uniform customs, & EXERCISE, PREVENT DAZES [~:03→:20 SECOND BLANK] + Bad RE

Young Drivers' INEXPERIENCE, & others, OVERCONFIDENCE FROM DOZENS OR 100's OF PLEASANT, SAME & FAMILIAR ROADS, F
AND RELAXATION CAN CAUSE DAZES... should be preventable by the ABOVE, & speedometer glances frequently. [REPORT TA
WEAR SEATBELTS, train derailment ENERGIES CAN happen ON hwyS. THERE ARE MORE FISK, birds, etc. ON the
than PEOPLE. NATURAL POWERS grow millions of pounds & inches EVERY YEAR. Wild NERVES CAN catch ONE HANDED C
r. or l. hooks CAN happen, KEEP TWO HANDS ON THE WHEEL. Don't underestimate NATURAL POWERS & VARIANCE, ONE
GLASS OF ALCOHOL or ONE (BITTER) pill CAN CAUSE NEARLY IMMEDIATE UNCONCIOUSNESS if your stomach's empty (2→5 hrs. ~ SINCE
BIOLOGIES & NERVES SOMETIMES ARE INTERCONNECTED. COUNTRY HWY. DRIVERS ARE A MINORITY OF CITY & THRUWAY
MORE RELAXED ACCUMULATED CONCIOUSNESSES, AND 1000's OF PRISONERS' BOREDOM CAN ACCUMULATE BADLY, CAUSE & EFFECT
11→+1, CAUSING DAZES or HURRIED ERRORS. 25/55 mph; 28/65 mph. UNINTENDED TRIGGER FINGER REFLEXES OCCUR.

THE GOAL OF A 100% END OF CRIME & DRIVING CASUALTIES (+PERMANENTLY) DEPENDS ON 100% AGREEMENT & FREQUENT C
COMMUNICATION (+ALERTNESS) OF SIMPLE RIGHT PSYCHOLOGY, that bad, non-human FEELINGS +/or REFLEXES CAUSE VIOLENT RES
misery OVER DAYS OR WEEKS compells violence, EVERYONE CAN understand Abnormal psychology, if you feel trapped in unh
the very good way to RETURN TO happiness is VERY VIGOROUS EXERCISE, cold or HOT baths, & other enjoyments.
Violence is a >99.9% EMOTIONAL disorder which has a NEAR 100% physical & EMOTIONAL remedy (vigorous EXERCISE & baths
Moderate EXERCISE is a PREVENTATIVE to bad FEELING. Wise control EXERCISES for ALERTNESS & to prevent bad REFLEXES.
(-1 bad feeling, boredom, confusion, misery) & +(-1) [EXERCISE, bath] → EVEN, happy.)
59601, MAY 1994 (NOV) MIKE B.; POET, PHILOSOPHER
mph's 25/35/45 CURVES; <50 on night straight-aways; 25 NO VIEW HILL TOPS. 1225 Wilder

The best (wisest) philosophy of law depends on the right & natural psychology explained in paragraphs 1 & 2.
cats, dogs, fish, etc. CAN CAUSE trigger fingers to REFLEX) UNFORTUNATELY, A SIXTEEN COMMERCIAL psychology & LAW project
was rejected by MAJOR (ABC, NBC, CBS) TV EXECUTIVES (dozens) who I wrote, ^{EVERY HIGHWAY, EVERY AD} SENT THE PROJECT to, TWICE, in '92 & '94. I file
'negligent homicide' charges with the FBI & the ATTORNEY GENERAL but got NO AFFIRMATIVE replies. The FUNDAMENTAL clear
right definition of OUR NATIONAL & CONSTITUTIONAL (+impl, citly some % international) ideal & LAW OF FREEDOM is: FRE
expression, happiness, sharing and trust. In rational (100%) CAUSE & EFFECT (DAVID HUME, English philosopher, 1649) logic, (1
a bad phenomenon usually causes a second bad phenomenon, & a good phenomenon usually causes a second good phenomenon
(1995; 2+2=4). BELIEF includes media, art, language, sports, ENTERTAINMENT, & daily experience. The best reality is dep
on the best beliefs, & optimism about human nature, including practical, factual, & statistical considerations.
In the best policy & law, one day → 6 wks. for disorderly conduct is a good rule of law, & homicide pardons of A ~ +
prison, then 1 → 2 → 5 → 10 → 20 → life &/or retirement at ~ 55/65 yrs. old, close supervision & tight schedules on mil.
bases, with gradually INCREASING privileges with good behavior, depending on how bad the kill(s) was, family circl
weapons security & control, understanding & distributing the ideas here, PEOPLE FUNDAMENTALLY ARE good & shouldn't be blamed for viol
mistakes should be understood, usually forgotten, & forgiven... THOUSANDS OF bored prisoners CAN CAUSE DAZES & ERRORS by driver;
biologies & nerves SOMETIMES ARE INTERCONNECTED... EVERYONE CAN share & enjoy good purpose & community service... towards a
to violence & prisons, ALWAYS, with more understanding of the TRUTHS here. MIKE B.
(WARDEN, P.D., military personnel copies forth coming) Freedom is the
Belief & will determine reality; LAW books ARE wrong but true, BEST LAW.
BA 70 M.L.S. 75 POET, PHILOSOPHER 1-95
[posters (dozens) & notes (100's) here & there]

SENATE BILL 96

GOOD AFTERNOON MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE.
FOR THE RECORD I AM MARV DYE, DIRECTOR OF THE DEPARTMENT OF
TRANSPORTATION. I APPEAR BEFORE YOU TODAY IN OPPOSITION TO
SENATE BILL 96.

THE DEPARTMENT OF TRANSPORTATION AND THE HIGHWAY COMMISSION
WORK TOGETHER TO ESTABLISH SPEED LIMITS THAT PROVIDE THE
GREATEST MARGIN OF SAFETY FOR USERS OF THE HIGHWAY SYSTEMS.
OCCASIONALLY COMMUNITIES BELIEVE THAT THE APPROVED LIMITS
SHOULD BE LOWER AND UNBELIEVABLE PRESSURE COMES TO BEAR ON
MYSELF, DEPARTMENT EMPLOYEES AND THE COMMISSION TO ALLOW FOR
ARBITRARY LOWER LIMITS. WE HAVE BETTER THINGS TO DO THAN
RESPOND TO THIS CRITICISM. I CAN TELL YOU QUITE FRANKLY THAT
SOMETIMES WE FEEL LIKE THROWING IN THE TOWEL, GIVING IN AND
ALLOWING COMMUNITIES TO HAVE THE LOWER SPEED LIMITS. BUT WE
DON'T, AND THE REASON WE DON'T IS BECAUSE IT IS NOT THE
RIGHT THING TO DO. WE ARE TOTALLY COMMITTED TO THE SAFEST
POSSIBLE SYSTEM AND THIS BILL WOULD NOT BE IN THE BEST
INTEREST OF THE CITIZENS OF MONTANA.

Testimony of Thomas J. Barnard, P.E.
Chief Engineer, Montana Department of Transportation

RE: Senate Bill No. 96

Mr. Chairman, Members of the Committee. For the record my name is Tom Barnard, I am the Chief Engineer with the Montana Department of Transportation. I am here in opposition to Senate Bill No. 96.

I will speak to the specific changes to current speed zone laws which this bill proposes and the reasons why they are inappropriate. But first of all I need to provide you some basic information concerning speed zones. I'll try to keep this as brief as possible but this is a very critical issue and many items therefore need to be addressed.

Speed zone recommendations are based on traffic and engineering investigations. These investigations look at several things. One being the 85th percentile. The 85th percentile is the speed at which 85 percent of the drivers are traveling at or below. The 85th percentile is based on the principle that 85 percent of the drivers are safe and prudent and adjust their speed to the conditions regardless of the posted limit. The 85th percentile is a very important factor but it is not the only factor. Pace is also a significant factor. Pace is the ten mile an hour increment in which the most drivers are traveling. The upper end of the pace range is very near the 85th percentile. Pace is important. It is important that vehicles all travel as close to the same speed

as possible. Roadside conditions are also given serious consideration when addressing speed zones. Accident records are looked into, not only the numbers of accidents but the cause of those accidents. Other conditions such as the presence or absence of roadside parking, presence or absence of pedestrians must be considered. All of these factors must be considered in order to establish the safest speed limit.

There is a common misconception that posting reduced speed limits reduces the speed of vehicles. This is not true. Secondly, that reduced speed limits improve safety. This again, in the majority of cases, is not true. Often the opposite is true. I have passed out a folder which includes documents to back that up.

1. This is an article from the Public Works Magazine, the title of it is Traffic Engineering Myths and Realities. Please note the highlighted areas, but it says two things. Before and after studies consistently show there is no significant change in speeds after posting a new speed limit. It also says speeding itself is not the major cause of accidents. In fact there is a consensus that many speed related accidents results from both excessively low and high speed.

Number 2 is a copy of pages from the Manual of Uniform Traffic Control Devices, which is the Nationally accepted Traffic

Engineering Guide and Policy and has been adopted by the State of Montana. Two particular issues. First of all, the highlighted area talks about the need for engineering studies. On the second page under speed limit signs, it says that they shall display the limit established by law or by regulation after an engineering and traffic investigation has been made in accordance with established traffic engineering principles. The key word is 'shall'. This manual has been adopted by the State of Montana. This article also goes on to explain to you what needs to be considered, as I previously mentioned, in establishing speed zones.

3. It shows the relationship between accident rates and mean speed. Mean speed is the average speed people are traveling or the 50th percentile. The 85th percentile is typically about 6-8 miles per hour higher than the mean speed, near where the yellow line is drawn. This clearly shows that the lowest accident rate is near the 85th percentile. Speeds higher or lower increase accidents.

4. Shows a comparison of speeds both before and after changing a posted speed limit. Some were lowered and some increased. Consistently these studies show that you do not significantly change the speed of the traffic.

5. Another study of the comparison of accident rates to mean speed, from which you can project the 85th percentile,

shows the same thing. Speeds higher or lower than the 85th percentile increase accidents.

6. A common statement is that Montana is different. Montana is not different. Before and after studies confirm the same things exist here in the state. For example, look at the town of Neihart itself. At the top the dates when speed zone studies were conducted is shown. For instance the fall of 1979. Below the date the 85th percentile at various locations within the town is listed and at the very bottom the speed zone that was in place at the time of the study. Notice that between the fall of 1979 and summer of 1984 the speed limit was increased from 35 mph to 40 mph in the area around the post office yet the speed did not increase. Yet when the study was done in the winter of 1993 speeds had increased even though the speed limit had not changed. The reason being a highway improvement project between the summer of 1984 and the winter of 1993 which made drivers feel it was safe to travel faster. The point being that, even in the town of Neihart, 35 mph arbitrary speed zone did not slow the traffic down.

Now to the specific changes proposed to the law. One change is that if the locals request a speed zone study the Commission may not increase the speed limit under consideration as a result of the investigation. I refer you to handout No. 7. What this shows is, where unrealistically low speed zones were in place. It lists, Neihart, Fairfield,

Reserve Street-Missoula, West Reserve Drive-Kalispell, and Hungry Horse where speed zones were unrealistically low. The range of drivers violating this posted speed limit is shown. You can see that as high as 95 percent of the drivers were violating the posted speed limit. The reason is because it was an unrealistic speed zone. Yet at the same time accident rates in these corridors were low. Of particular interest is Fairfield. It was recognized by the locals that this was nothing more than a speed trap. Reserve Street in Missoula the same applies. West Reserve in Kalispell, the locals wanted it increased because the speed limits were unrealistic. If we go out and do a speed zone study and we find that the speed posted is unrealistically low we have an obligation to increase that speed limit, if after all factors are considered, the safest speed zone is higher. The reason we have an obligation is that posting a reasonable speed limit will reduce accidents even though it may in fact be a higher. In all cases local government, prior to doing the studies, is given the opportunity to have a presentation made explaining how and why speed zones are established. They are clearly advised that the speed zones may go up or down.

The second proposed change is to decrease the speed limit within an area within 2000 feet of a school or of a senior citizens center. Handout #8 shows you what the effect would be in the city of Helena. Virtually all of the streets within

the city of Helena could be arbitrarily reduced to 70 percent of the safest speed zone creating nothing but speed traps. Secondly, and more important, is that when a low speed limit is posted, drivers must see something, within a relatively short distance, to reinforce the need for that low speed limit. Otherwise they forget about it. Typically in an urban area they will forget about it within one or two blocks unless they see reinforcement such as children adjacent to the roadway. To post the speed limit 2000 feet away without any reinforcement will cause drivers to ignore the speed limit where it is most critical and that is near the school where children are present. By the time they have reached the school or crosswalk they will have forgotten about the speed limit.

The third change is to allow local government to reduce the speed limit set by a traffic and engineering investigation to 70 percent of the recommendation rounded down to the nearest whole number. This would allow a 55 mph speed zone to be arbitrarily reduced to 35 mph, a 45 mph reduced to 30 mph, and a 35 mph reduced to 25 mph. I would encourage you to go back to the handouts I showed you which compare the 85th percentile or mean speeds with accident rates. Plot on there what a 15 percent arbitrary reduction in speed zones does to accident rates.

In summary, I would encourage you to kill this bill very

simply because it does not promote safety.

EXHIBIT 3
DATE 1-19-95
1 SB 96

What this bill does do is very likely increase accidents. It will definitely create speed traps. Some of the information I presented to you states that a speed zone which is 5 miles an hour less than the 85th percentile makes 25 percent of the safe and prudent drivers violators. Now include the 15 percent who are not safe and 40 percent violate the posted limit. If 10 mph low, we typically find 60-70 percent become violators. This penalizes safe and prudent drivers and increases road user costs. Safe drivers get tickets and their insurance rates go up.

This bill also leaves the responsibility and the liability for speed zones with the State of Montana, particularly the Department of Transportation and yet gives the authority to local government. If you are not of a mind to kill this bill then modify it to give the responsibility to local government and require them, as we are required, to establish speed zones based on traffic and engineering investigations. Require that they have someone qualified and experienced establish those speed zones and place the liability upon local government. Responsibility for studies, authority to establish speed zones and the liability for those actions must all rest with the same entity.

I will be available to answer any questions you may have.

realize that signals can also cause a significant increase in rear-end collisions.

Normally, traffic engineers are willing to trade off an increase in rear-end collisions for a decrease in the more severe angle accidents; however, when there is no angle accident problem at an intersection and a signal is not needed for traffic control, there is nothing to trade off and the installation of traffic signals can actually cause a deterioration in the overall safety at the intersection. This situation sometimes prompts the remark, "You mean you won't do anything until somebody gets killed!" What is not fully understood is that traffic signals are not a "cure-all" and that the primary goal of the traffic engineer is to attain the safest and most efficient traffic flow feasible.

In addition to an increase in accident frequency, unjustified traffic signals can also cause excessive delay, disobedience of signals, and diversion of traffic to residential streets.

Traffic signals are more costly than is commonly realized, even though they represent a sound public investment when justified. A modern signal can cost taxpayers between \$50,000 and \$100,000 to install — depending on the complexity of the intersection and the characteristics of the traffic using it. On top of this, there is a perpetual cost that is almost never considered — the cost of the electrical power consumed in operating a signalized intersection 24 hours a day. This now averages about \$1,400 per year.

Speed Limits

One of the most prevalent myths around is that motorists will adjust their speed in response to the numbers posted on speed limit signs regardless of roadway and traffic conditions.

Before-and-after studies consistently demonstrate that there are no significant changes in traffic speeds following the posting of new or revised speed limits. Furthermore, no published research findings have established any direct relationship between posted speed limits and accident frequency, although short-term reductions have resulted from saturation enforcement efforts directed at speed and other traffic law violations. Police agencies necessarily rely on reasonable and well recognized speed laws to control the unreasonable violator whose behavior is clearly out of line with the normal flow of traffic.

Contrary to popular belief, speed in itself is not a major cause of accidents. In fact, there is a consensus of profes-

sional opinions that many speed-related accidents result from both excessively low and high speeds.

Then why have speed limits? Realistic speed limits — that is, speed limits that reflect the normal actions of the reasonable driver, are useful for several reasons:

- They invite public compliance by conforming to the behavior of the majority.
- They give a clear reminder of reasonable and prudent speeds to non-conforming violators.
- They offer an effective enforcement tool to the police.
- They tend to minimize the public antagonism toward police enforcement that results from obviously unreasonable regulations.

On the other hand, unrealistic speed limits can be detrimental:

- They do not invite voluntary compliance, since they do not reflect the behavior of the majority.
- They make the behavior of the majority unlawful.
- They create public antagonism toward the police, since the police are enforcing a "speed trap."
- They create a bad image for a community in the eyes of tourists.

Flashing Beacons

Do they really cause motorists to reduce their speeds? Flashing beacons (commonly called flashers or flashing lights) are frequently requested by communities in the belief that they will reduce vehicle speeds. Unfortunately, this is not necessarily the case. A flasher is generally installed at an intersection or in conjunction with a warning sign in advance of an area requiring greater than normal care by the average driver. Flashing beacons serve a useful purpose where the flashing yellow is used to alert drivers to unusual conditions that are not readily apparent, such as obstructions in the roadway, uncommon roadway conditions, narrow bridges, or unusual conditions hidden from the motorist's view.

One of the more common locations where a flasher can be used effectively is at a signalized intersection located just beyond a vertical or a horizontal curve, when the intersection is hidden from the view of approaching motorists.

For any flasher to be effective, it must command the respect of the motoring public. In other words, immediately after seeing a flasher, the driver must consistently see an unusual condition that is being singled out for attention. Furthermore, the condition that motorists see must be viewed as serious enough to justify their having been alerted.

When flashers are used improperly and installed at locations where they are not warranted, they soon lose much of their effectiveness. They simply cease to command the respect of the drivers. What happens is that after continually being alerted to a condition which seldom, if ever, appears to be truly unusual, drivers actually stop "seeing" the flasher. When this happens, flashers that are truly needed may well be disregarded by drivers who have become conditioned to believe that flashers are just "window dressing." Because of this normal human reaction, even one improper usage greatly reduces the effectiveness of essential flashers.

Quite often, community requests for flashers are emotional responses to symptoms, rather than attempts to solve underlying problems. To put this into perspective, let's use an appropriate analogy: the case of measles. Obviously, to cure a patient who has measles, the disease itself (measles must be treated — not the symptom (rash). In traffic control, it is not uncommon for public responses to be directed at treating symptoms. For example, in cases where concerned parents are requesting flashers on pedestrian warning signs, a traffic investigation all too frequently reveals that:

- There is no "safe route to school" plan in the community.
- There is no pedestrian safety program in the schools.
- Very young children are allowed to wander to school by whatever route their youthful minds prefer.
- Parents are willing to abdicate their responsibilities by placing the entire burden for pedestrian safety on a traffic control device.
- Local law enforcement officials turn a blind eye to youthful pedestrian traffic violations.
- Where traffic laws are enforced by conscientious law enforcement officials, outraged parents explain away the irresponsible behavior of their children by claiming that the fault lies in inadequate traffic control devices, not in their children.

Flashers that are installed when these conditions exist result in the following:

- The flasher soon becomes part of the normal driving environment and is ignored.
- Parents continue to ignore their responsibilities to their children.
- The community continues to avoid treating the real problem.
- Other flashers, which are justified, are frequently disregarded by motorists conditioned to believe that flashers can be safely disregarded.

(Continued on page 94)

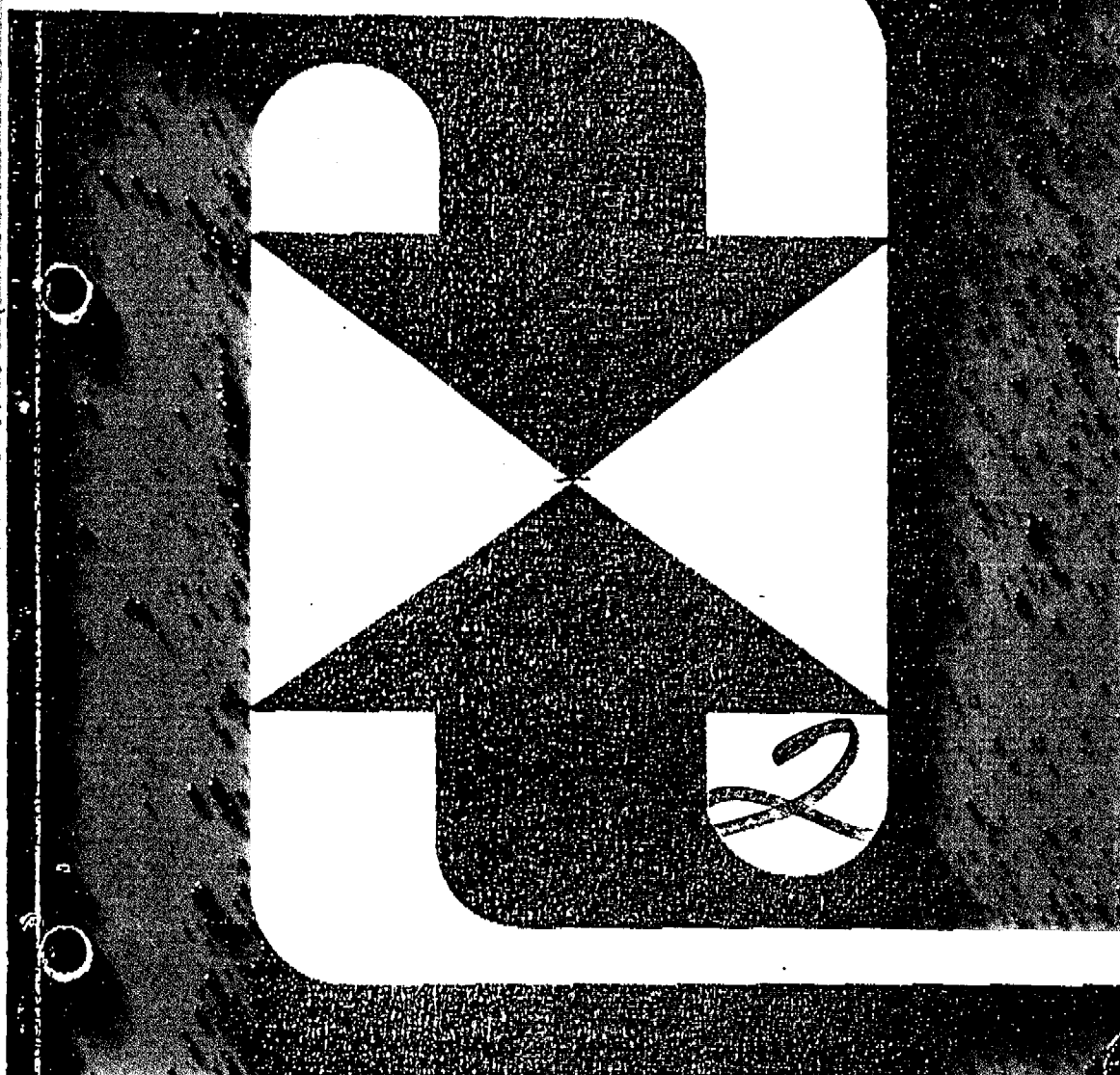
MANUAL
ON
UNIFORM
TRAFFIC
CONTROL
DEVICES

SENATE HIGHWAYS

EXHIBIT NO. 3BDATE 1/19/95BILL NO. SB 96

1988 EDITION

FOR STREETS AND HIGHWAYS



All traffic islands shall be installed by the authority of the public body or official having jurisdiction. For those islands that are elements of street and highway design and are included in the design of the street or highway, no specific authority is required.

All regulatory devices, if they are to be enforced, need to be backed by applicable laws, ordinances, or regulations. Effective traffic control depends not only on appropriate application of devices, but on reasonable enforcement of regulations as well. Standards in this Manual are based on that concept.

1A-4 Engineering Study Required

The decision to use a particular device at a particular location should be made on the basis of an engineering study of the location. Thus, while this Manual provides standards for design and application of traffic control devices, the Manual is not a substitute for engineering judgment. It is the intent that the provisions of this Manual be standards for traffic control devices installation, but not a legal requirement for installation.

Qualified engineers are needed to exercise the engineering judgment inherent in the selection of traffic control devices, just as they are needed to locate and design the roads and streets which the devices complement. Jurisdictions with responsibility for traffic control, that do not have qualified engineers on their staffs, should seek assistance from the State highway department, their county, a nearby large city, or a traffic consultant.

1A-5 Meanings of "Shall," "Should" and "May"

In the Manual sections dealing with the design and application of traffic control devices, the words "shall," "should" and "may" are used to describe specific conditions concerning these devices. To clarify the meanings intended in this manual by the use of these words, the following definitions apply:

1. **SHALL**-a *mandatory* condition. Where certain requirements in the design or application of the device are described with the "shall" stipulation, it is mandatory when an installation is made that these requirements be met.
2. **SHOULD**-an *advisory* condition. Where the word "should" is used, it is considered to be advisable usage, recommended but not mandatory.
3. **MAY**-a *permissive* condition. No requirement for design or application is intended.

1A-6

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3. Expe
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of use.

Request
submitted

In the event the visibility of a STOP sign or a YIELD sign at any location is restricted, the sign shall be located as specified, and a Stop Ahead sign (sec. 2C-15) or a Yield Ahead sign (sec. 2C-16) shall be erected in advance of the STOP or YIELD sign.

Figures 2-2, 2-7a, 2-7b, and 2-7c (pages 2A-10 and 2D-16 to 2D-18) show typical STOP and YIELD sign installations.

2B-10 Speed Limit Sign (R2-1)

The Speed Limit sign shall display the limit established by law, or by regulation, after an engineering and traffic investigation has been made in accordance with established traffic engineering practices. The speed limits shown shall be in multiples of 5 miles per hour.

In order to determine the proper numerical value for a speed zone on the basis of an engineering and traffic investigation the following factors should be considered:

1. Road surface characteristics, shoulder condition, grade, alignment and sight distance.
2. The 85-percentile speed and pace speed.
3. Roadside development and culture, and roadside friction.
4. Safe speed for curves or hazardous locations within the zone.
5. Parking practices and pedestrian activity.
6. Reported accident experience for a recent 12-month period.

Two types of speed limit signs may be used: One to designate passenger car speeds including any nighttime information or minimum speed limit that might apply, and the other to show any special speed limits for buses and trucks. No more than three speed limits should be displayed on any one speed limit sign or assembly. Where a special speed limit applies to trucks or other vehicles, the legend TRUCKS 40, or such similar message as is appropriate, shall be shown below the standard



R2-1



R2-2

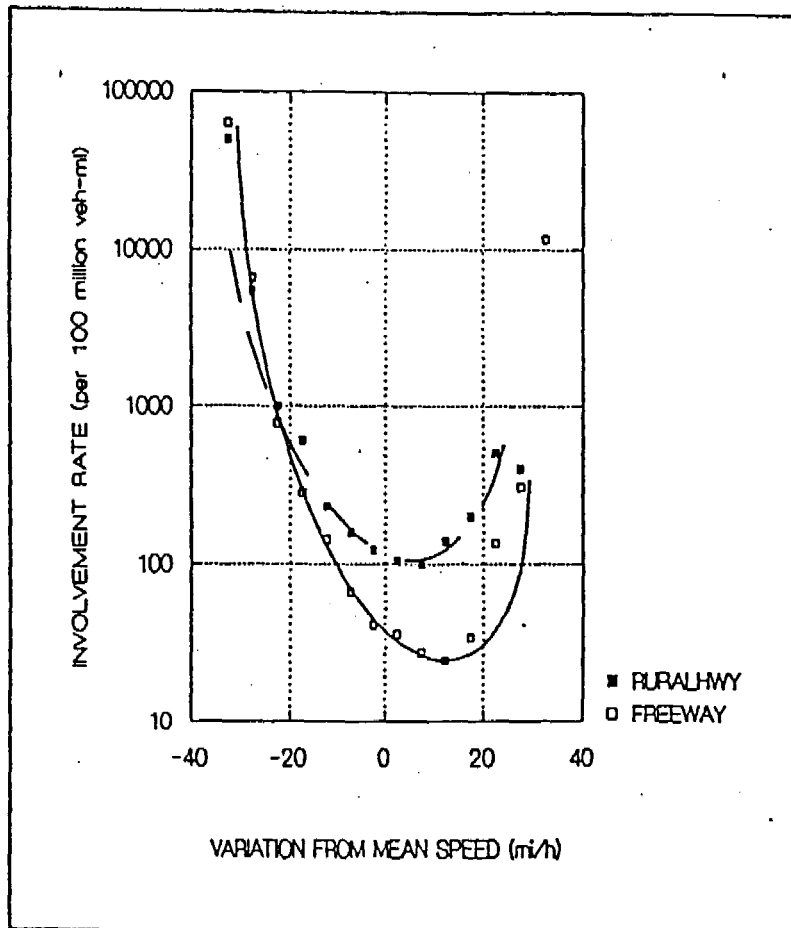


FIGURE 1. RELATIONSHIP BETWEEN ACCIDENT INVOLVEMENT AND DEVIATION FROM AVERAGE TRAFFIC SPEED (SOURCE: HARKEY, ROBERTSON AND DAVIS, "ASSESSMENT OF CURRENT SPEED ZONING CRITERIA")

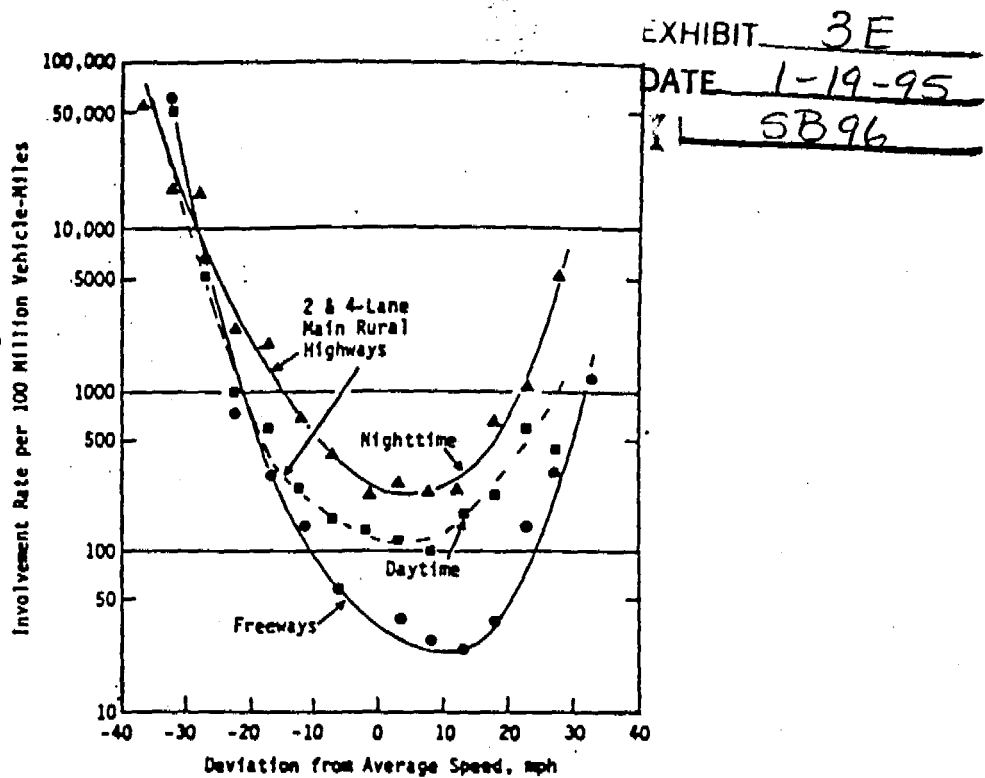


Figure 4. Relationship between accident involvement rate and deviation from mean speed.

Source: Reference [37]

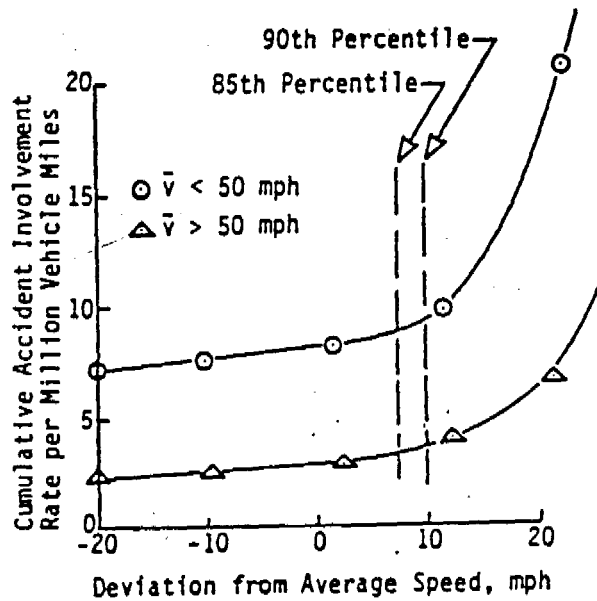


Figure 5. Relationship between 85th percentile speed, accident involvement rate, and deviation from mean speed for two levels of traffic speed.

Source: Reference [37]

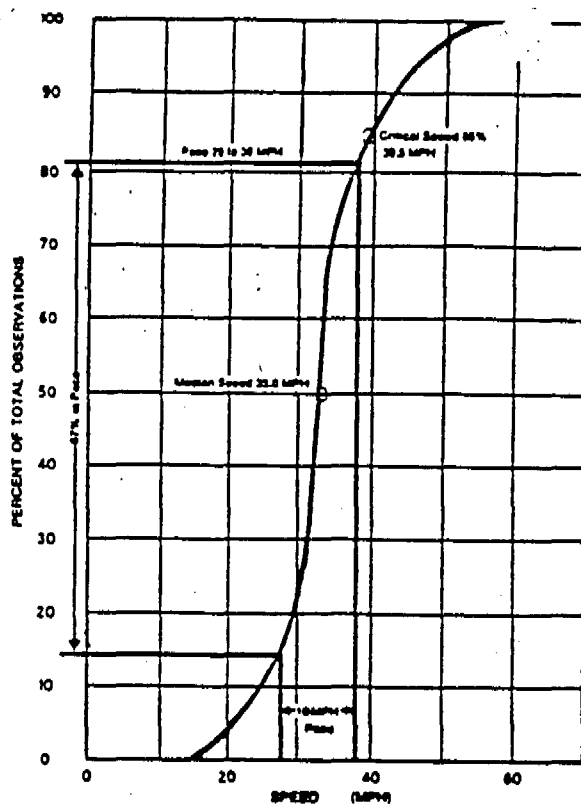


Figure 3. Typical cumulative speed distribution curve.

Source: Reference [7]

however, little research was conducted at that time to substantiate the effects of the method on traffic speeds and safety.

Kessler was one of the first to state that the 85th percentile speed may be related to accident risk.[36] In 1959 he wrote "the 85-percentile speed is based upon the theory that the majority of motorists traveling upon a city street or highway are competent drivers and possess the ability to determine and judge the speed at which they operate safely; further, that motorists are responsible and prudent persons who do not want to become involved in an accident and desire to reach their destination in the shortest possible time".[36]

Studies conducted by Solomon[9] and Cirillo[10] indicate that the 85th percentile speed is in the speed range where the accident involvement rate is lowest. The relationship between the accident involvement rate and the deviation from average speed is shown in Figure 4. On most roadways, the 85th percentile speed is one standard deviation or approximately 6 to 8 mph (10 to 13 km/h) above the average speed. A study conducted by West and Dunn provided further evidence that the 85th percentile speed had the lowest accident involvement.[11] As shown in Figure 5, Joscelyn, et al., analyzed speed and accident data on Indiana highways and found that accident risk begins to increase significantly beyond the 85th percentile speed.[13] These data indicate that the 85th percentile speed is not only reasonable for the majority of drivers, but also the safest. The findings support the



U.S. Department
of Transportation
**Federal Highway
Administration**

Report No. IWA/RD-85/096

SYNTHESIS OF SPEED ZONING PRACTICES

SENATE HIGHWAYS

EXHIBIT NO. 3 E

DATE 1/19/95

BILL NO. SB 96

Research, Development,
and Technology

Turner-Fairbank Highway
Research Center
6300 Georgetown Pike
McLean, Virginia 22101

July 1985

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- a. Twenty-two vehicle detector stations were used to sense vehicles and speeds, and to activate warning signs. Twelve configurations of signs were tested.
 - b. A sign configuration with one sign stating "Flashing Means you Violated" received the highest percentage of compliance. Average speed with this configuration for the day-auto sub-group was 42.0 mph (67.6 kph) as compared with 44.5 mph (71.6 kph) for the usual signing. (Sign condition 3).
4. Taylor (Ref. 9) studied relationships between normality of speed distributions and accident occurrence over a two-year period for a 15-mile (24.1 km) section, with analyses made for twenty-two 500 ft. (152.3 m) sub-sections.
- a. The average number of accidents per subsection with non-normal (skewed) speed distributions was 4.62, compared with 1.36 for subsections with normal speed distributions.
 - b. Fifty-one speed zones were analyzed later, with studies made also for adjacent control sections. The zones were segregated into groups according to whether speed distributions changed from non-normal to normal after speed zoning.
 - c. Results showed that the accident rate reductions for sections changing from non-normal to normal speed distributions were about twice the reductions for any other set of before-and-after conditions.
 - d. It was concluded that the "before" speed distribution alone was not adequate as a warrant for speed zoning.
5. A 1984 AASHTO survey compiled the results of studies where the effects of raising or lowering the speed limits were examined. Figure 3 summarizes this information. Little change in the 85th percentile speed was realized. One important point to note is that even a small decrease in the speed limit (5 mph) increased the motorists' non-compliance rate by about 25%. (Ref. 13).

FIGURE 3. Summary of State studies of the effects of raising and lowering speed limits.

State	Date of Study	Number of Sites	Existing Speed Limit	Average 85th Percentile Speed			Remarks
				Before	After Posting Lower Limit	After Posting Higher Limit	
Massachusetts	Oct. 1966	19 Two-lane	30-45	47.5	48.3	48.0	After posting 10 mph lower and higher limits than existing zones, no difference in 85th percentile speeds were found.
		6 Dual-lane	50-55	60.7	60.3	61.0	
Michigan	1982	4	25	37.6		36.0	Speed limit increased to 35 mph. Violations decreased from 90.4 to 19.3 percent.
		4	55	56.8	54.8		Speed limit lowered to 50 mph. Violations increased from 26.6 to 44.4 percent.
		4	55	57.8	56.0		Speed limit lowered to 50 mph. Violations increased from 29.3 to 53.8 percent.
		5	45	49.2	47.0		Speed limit lowered to 35 mph. Violations increased from 43.7 to 93.2 percent.
Minnesota	Jan. 1979	12 Two-lane	45	NA	43.6		Speed limit lowered to 30 mph.
		4 Four-lane	40	42.0	40.3		Speed limit lowered to 30 mph.
Washington	1981-82	3	25	34.7		34.3	Speed limit raised to 30 mph.
		1	50	57.0		59.0	Speed limit raised to 55 mph.
		1	50	43.0	42.0		Speed limit lowered to 35 mph.
		3	40	45.0	43.7		Speed limit lowered to 35 mph.

Note: 1 mph = 1.6 km/h
NA = Not Available

Source: The Traffic Institute
Northwestern University

SENATE HIGHWAYS
EXHIBIT NO. 37
DATE 1/9/95
BILL 5896

SENATE HIGHWAYS

EXHIBIT NO. 3 FDATE 1/19/95BILL NO. SB 96

Neihart Speed Profile

<u>Location</u>	<u>85th % Fall '79</u>	<u>85th % Summer '84</u>	<u>85th % Winter '93</u>
South end of town	55 mph	57 mph	59 mph
Maintenance Yard			50 mph
Senior Center	42 mph	43 mph	49 mph
Post Office	40 mph	39 mph	46 mph
Bar & Grill			44 mph
40/50 split (north end)			50 mph
North end of town	51 mph	51 mph	58 mph
(Speed limit in place)	(55/45/35)	(55/50/40)	(55/50/40)

SENATE HIGHWAYS

EXHIBIT NO. 3 G

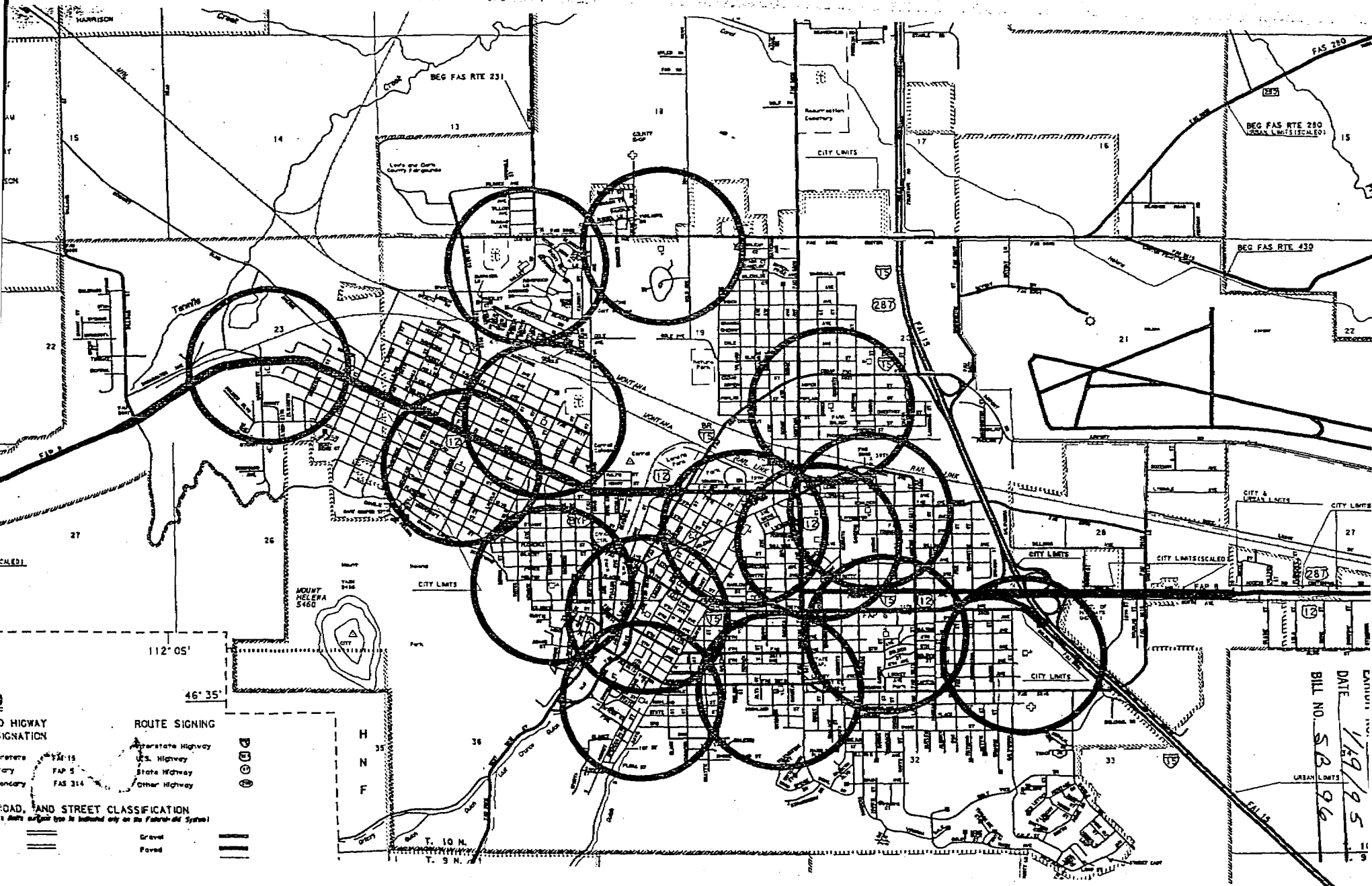
DATE 1/19/95

BILL NO. SB 96

PERCENTAGE OF MOTORIST POPULATION
NOT IN COMPLIANCE WITH THE EXISTING SPEED ZONE
DURING SITE INVESTIGATION

NEIHART (US-89)	29-60%
FAIRFIELD (US-89)	45-95%
RESERVE STREET - MSLA	55-93%
W RESERVE DRIVE - KALISPELL	30-92%
HUNGRY HORSE (US-2)	24-93%

7



DATE 1/19/95SENATE COMMITTEE ON HighwaysBILLS BEING HEARD TODAY: SB-51 SB 96 SB104

< ■ >

PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
DIANDE M. JOHNSON	CITY OF HELENA & LEWIS & CLARK CO.	96	X	
Clayton Fiscus	1111 Main Bldg Mt	51		X
Tom Barnard	Mont Dept. of Trans	96		X
PATRICIA SAINDON	MDT	104	X	
HANK HONEYWELL		96		X
Harry Lauer	Dept. of Justice Hwy Safety	96		X
Jim Currie	MDT			X
Margaret Gray-Schwinden	women in Farm Eco	104		X
MARV DYE	MDT	96		X
Mike Barrett (13c's paper included)	Citizen Artists (44-2195) (44-1111)	96	✓	
Donalene O'Neill	Box 35 Meikart	96	✓	
J. D. "Sammy" O'Neill	Box 35 Meikart	96	✓	
THOMAS R. FORSETH	MONTANA HIGHWAY COMMISSION	96		✓
Steve Turkiewicz	MT Highway Sensors Fed. MDTA	104	L	

VISITOR REGISTER

to change the way they do business, as the different time element could affect their cash flow.

SENATOR JERGESON stated that he disagreed with SENATOR STANG on the basis that the date the money was to be remitted, it was not their property anymore. He articulated that it was the property of the taxpayers of Montana and they were the ones who should be getting the float on the money. He maintained that there were a number of cases where, when banks were serving as clearing houses for collections, electronic transfers were being required.

SENATOR SWYSGOOD said it had to be remembered that the distributor, or whomever, had received the advantage of the interest from that money up until the time the tax was due.

CHAIRMAN TVEIT reminded them that the Bill was mandatory, but they had the ability to make it voluntary.

THE QUESTION WAS CALLED FOR.

Vote:

THE MOTION THAT SB 86 DO PASS FAILED ON A FIVE TO FOUR VOTE. ROLL CALL VOTE NUMBER 2 SHOWED SENATORS HOLDEN, COLE, MOHL AND JERGESON VOTING YES AND SENATORS TVEIT, SWYSGOOD, NELSON, STANG AND JABS VOTING NO.

Motion/Vote:

SENATOR SWYSGOOD MOVED TO TABLE SB 86 AND THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 96

Discussion:

CHAIRMAN TVEIT asked if executive action on SB 96 needed held for the other related bills which were to arrive in Committee? Tom Barnard stated that there were four bills, SB 96, HB 249, HB 254 and another Senate Bill Senator Nelson would be carrying, all dealing with these specific laws related to the speed zone language.

SENATOR NELSON commented that her bill was very simple.

CHAIRMAN TVEIT asked the status of the House Bills and if they were moving along? Tom Barnard stated that one of the House Bills was in local government and would be heard that day and the other was scheduled to be heard Thursday or Friday.

CHAIRMAN TVEIT asked the Committee's pleasure for acting on or holding SB 96?

SENATOR JERGESON stated that the timing did not matter to him, but asked if the little box and cord running across the highway was the method used in doing these traffic speed surveys? He queried if that apparatus only determined traffic count or did it also determine speed? **Tom Barnard** replied that the little line only counted numbers of vehicles and had nothing to do with speed zone studies.

SENATOR JERGESON asked how the Department did their survey on speed? **Tom Barnard** related that there was new equipment which could be used, but for a majority of the time they actually had someone out there who recorded the actual radar speed of the vehicles.

SENATOR JERGESON asked if anyone knew what day these recorded speeds were going to be done? **Tom Barnard** replied that they made a specific effort to try ensuring that no one did know. He stated that an awareness could affect the results.

SENATOR SWYSGOOD stated that he was not in favor of holding SB 96 until the other bills arrived and stated that each bill should stand or die on their own merit.

Motion:

SENATOR MOHL MOVED TO AMEND SB 96 AS STATED IN EXHIBIT #7.

Discussion:

SENATOR MOHL explained the amendment as requiring the Department to make a traffic study, if a city, county, school district or like entity requested, and the results would be proposed to the requestor. He stated that if the requestor was not happy with the study results they could then hire a qualified, professional, private entity to make another study and those results would have to be accepted by the Department. He stated that the Department would also be required to pay the bill for the private study. He clarified the results of the private study as the determining decision on what the speed limit would be. **SENATOR MOHL** said that if you currently let just anyone determine a speed limit, the Department of Transportation was liable for lawsuits if the law suit was there. He attested that the amendment would remove the problem from the courts and eliminate the ability of just anyone declaring an area as a specific speed zone.

SENATOR COLE referred to the portion of the amendment which would establish that an independent study could be conducted by a qualified engineering firm acceptable to the requesting local

authority and queried as to inclusion of the Department? **SENATOR MOHL** responded that the Department was included.

SENATOR COLE asked what would happen if they did not agree? **SENATOR MOHL** rendered that as a good question and suggested changing the amendment to pertain to their being qualified.

SENATOR COLE inquired who would ascertain their being qualified? **SENATOR MOHL** answered that they would have to be qualified, because their name would be appearing on the final results and they would be subject to a lawsuit if they couldn't back up their documentation. He likened the qualification to that of a qualified land surveyor or appraiser.

SENATOR SWYSGOOD attested that he had a problem with the amendment, which went back to the residents of Neihart who had asked the Department to do their study and the results were that the speed limit was raised. He accounted that the result had been the exact opposite of what the residents had anticipated and maintained that in all probability this would reoccur because of the manner in which statute required the study to be conducted. He contended that the local authority would have to extend monies to hire a qualified party to make another study which could arrive at the same determination to raise the speed limit. **SENATOR SWYSGOOD** interpreted the scenario as having created a financial burden on the public, while still not rectifying the situation and left the situation arbitrary as to who is qualified to accomplish the task. He maintained that this left a lot of unanswered questions but accounted the larger problem as whether or not the community had an opportunity to express their displeasure with the study results? He asked if the residents had received notification of the pending increase and allowed comment, or had the speed limit just been raised? **Tom Barnard** stated that whenever local government agencies requested a speed zone study the Department always presented them with a slide presentation explaining the speed zone establishment principals. He said it always was explained that it must be recognized that the speed zone could go up or down and the parties were asked if they still wanted the Department to conduct the study. He contended that the Mayor of Neihart had been clearly informed that the speed zone could be raised because all of the Department's information indicated that this was an unrealistic speed zone being requested. He narrated that 90% of the 170,000 people who drive through Neihart stated that the speed zone was unrealistic.

SENATOR SWYSGOOD asked if the Department had automatically raised the speed zone to 45 mph once the study was taken and it revealed a warranted increase, or did they return to the town and disclose the results of the study? **Tom Barnard** identified the first thing always done following completion of a study as writing of the Departments recommendations and sending them to the requesting party with an inquiry as to how the party thought. He stated that if the party disagreed, the Department took their study and

the other party's comments to the Montana Highway Commission for the ultimate decision. He testified that the parties were always asked for a response to the study. He contended that even though the speed zone had been raised when Neihart had requested the recent study, in 1993 the same law had allowed them to reduce a speed zone by 20% in the area of their senior citizens center.

SENATOR SWYSGOOD stated that while the Bill was brought forth to address one particular situation, he felt it had ramifications far beyond the town of Neihart. He articulated this as the main concern he had with the Bill. He asked if he understood correctly that the town of Neihart had a 45 mph speed limit and a 20% reduction by the senior citizens center? **Tom Barnard** affirmed that he was correct.

SENATOR SWYSGOOD queried as to whether the 20% reduction was a 35 mph speed zone at the senior citizens center? **Tom Barnard** responded yes.

SENATOR SWYSGOOD asked if you entered Neihart from a 55 mph road into a 45 mph speed limit? **Tom Barnard** again affirmed yes.

SENATOR SWYSGOOD questioned how far into the 45 mph zone you were when the 35 mph zone took affect? **Tom Barnard** showed a large aerial photograph of how the Neihart speed zones were laid out.

SENATOR SWYSGOOD commented that the described layout of Neihart was beginning to remind him of a small town in his District where people lived right on the highway's edge. He compared the speed zones in both towns and related that he had observed that people didn't necessarily slow to the prescribed 45 mph speed zone requirement in the town in his district. He reiterated the implications of the Bill, as it related to the small town in his District as well as similar others in Committee Member's Districts. He reasked the distance involved between the 45 mph and 35 mph zone? **Tom Barnard** explained that when a speed had to be reduced from 55 mph to less than 45 mph there had to be steps to allow the room to accomplish it. He said the intent was to facilitate the feat without applying the brakes, but by removing the drivers foot from the gas pedal the natural deceleration of the vehicle will get you to the prescribed speed. He reviewed the aerial map description and described the distance from the 55 mph to 35 mph zone as approximately 800 to 1,000 feet. He explained the next zone a rising to 45 mph until you were beyond the developed area and then again rising to 55 mph. He depicted the map as showing the existing speed zones and the accidents which had occurred through the area.

SENATOR STANG stated that with viewing the map, the speed zone did not seem that unreasonable. He remarked that he had lived in a town which had an interstate running through it and even though the speed limit was 35 mph, no one ever went slower than 55 mph. He contended that it didn't matter how many signs were posted, it was the enforcement that made the difference. He reported having

a town in his District which had a 25 mph speed limit and if you weren't in compliance, you were going to get a ticket. He further related his District as having another small town with a 35 mph speed limit which was never enforced and the resulting factor was that no one slowed down in that town. He identified a third town in his District as apparently having had one of these studies done, because even though houses were right along the road their speed limit had gone from 40 mph to 50 mph. **SENATOR STANG** expressed compassion for the people of Neihart, but stated that he did not feel it mattered what the speed limit was set for if the enforcement problem wasn't dealt with. He thought that the people of Neihart should be approaching their County Officials or Montana Highway Patrol for personnel to enforce the laws, rather than coming to Legislature for a solution.

SENATOR MOHL reported that he had proposed the amendment because of the history of complaints and large potential for more to come when local people were not satisfied with the results of these studies. He professed that he had been trying to present an amendment which would develop one set method for eliminating future problems.

SENATOR JABS remarked that he did not like the phrase of the amendment which made the study result binding. He asked if the statute required an increased speed zone if the study result indicated a higher speed or could the Department have left the speed zone as it was? **Tom Barnard** rendered the law as stating that speed zones had to be established, based on a traffic and engineering investigation. He answered that he did not think the law specifically stated that the speed zone had to be raised just because the study said it should be raised. He stated that the type of process they used was developed and based on years of history which said that the safest speed zone was based on a general 85th percentile combined with other factors and was accepted by all fifty states and many enforcement agencies. He defined the studies as public record which resulted in showing that the existing speed zone was too low and history showed that low speed zones caused as many accidents as high ones. He explained that the completed study would result in documentation in your file which stated that this was an unrealistically low speed limit which causes accidents. He proclaimed that if nothing was done to correct the situation the question would not be whether you were going to pay, but how much you would pay. He pronounced that his explanation described the problem which existed.

SENATOR NELSON said she had to look at the amendment as passing the buck to another engineering firm, with the cost going to the Department of Transportation to do the very same thing. She attested to not agreeing with that method and expressed it as redundant and unnecessary.

THE QUESTION WAS CALLED FOR ON THE MOHL AMENDMENT.

Connie Erickson asked for the opportunity to explain the amendment prior to the vote and explained that the amendment not only changed the part of the Bill regarding the engineering studies, but also affected page 2, line 8 where the Bill defined the area around a school or senior citizens center as 2,000 feet. She said the amendment before them struck the 2,000 feet language and the 70% and would revert the Bill language back to where current law was. She said it only made a change in new language on page 1, regarding the investigation and the study.

Motion:

SENATOR SWYSGOOD MOVED TO SEGREGATE AND VOTE ON AMENDMENT ONE BY ITSELF, THEN VOTE ON THE LAST THREE TOGETHER.

Discussion:

SENATOR SWYSGOOD reasoned that some of the Committee may have trouble with number one, but may like to see the other part of the Bill amended, if it had the ability of getting out of Committee.

Vote:

ROLL CALL VOTE #3 SHOWED THE MOTION ON AMENDMENT NUMBER ONE AS FAILING WITH THREE SENATORS VOTING YES AND SIX VOTING NO. SENATORS HOLDEN, STANG AND MOHL VOTED YES AND SENATORS TVEIT, SWYSGOOD, NELSON, COLE, JERGESON AND JABS VOTED NO.

Discussion:

SENATOR STANG asked to clarify whether the second portion of the amendments brought the Bill language back to current law? Connie Erickson answered yes, except number three placed an immediate effective date on it.

THE QUESTION WAS CALLED FOR.

Vote:

THE MOTION ON AMENDMENTS NUMBERED 2, 3 AND 4 CARRIED, WITH SENATORS MOHL AND JERGESON VOTING NO.

Discussion:

SENATOR SWYSGOOD asked for clarification of what condition the Bill was in. Connie Erickson said that currently all that was left were the changes in section one.

SENATOR HOLDEN stated that all they had to speak to was the letter (b).

SENATOR STANG said he would argue against the Bill, because he thought it would be setting more precedent which maybe should not have been sent last session. He said he thought that it had accomplished the determination that what SENATOR FOSTER needed to do was let his town's people know that he had tried to help them, but the Legislature had said that this wasn't the place to get it done. He asked if anyone else wished to speak on the Bill before he made a motion.

Motion/Vote:

SENATOR STANG'S MOTION TO TABLE SB 96 CARRIED UNANIMOUSLY.

ADJOURNMENT

Adjournment: The meeting was adjourned at 2:56 p.m.



SENATOR LARRY TVEIT, Chairman



CARLA TURK, Secretary

LJT/cmt

**MONTANA SENATE
1995 LEGISLATURE
HIGHWAYS AND TRANSPORTATION COMMITTEE**

ROLL CALL

DATE 1-24-95

[illegible]

SEN:1995
wp.rollcall.man
CS-09

DATE 1/24/95 BILL NO. 5B 96 NUMBER Roll 3
MOTION: Mo. Ad. Amendment # 1

SEN:1995
wp:rlclvote.man
CS-11

AMENDMENT TO SENATE BILL 96 (Introduced Copy No. SB 96)

1. Page 1, line 18 through line 21.
Strike: Subsection (b) in its entirety.
Insert: "(b) If a local authority has requested the department to conduct an engineering and traffic investigation as provided for in (1)(a) and the local authority does not agree with the department's conclusions, the local authority may, within 60 days, request that an independent study be conducted by a qualified engineering firm acceptable to the requesting local authority and the department and paid by the department. No change in speed limits will be made until all studies are complete. The results of the independent study shall be binding on the department and the local authority."
2. Page 2, line 8.
Strike: "within 2,000 feet of"
3. Page 2, line 10.
Strike: "70%"
Insert: "80%"
4. Page 2, line 25 and line 26.
Strike: Section 3 in its entirety.
Insert: NEW SECTION. Section 3. Effective date. [This act] is effective on passage and approval.

REP. MCGEE said records management was a part of the bill and in light of the fact that "it's been virtually impossible" to locate historical railroad records, he asked if there were railroad records that existed.

REP. CLARK said he didn't know, but could give him the name of the person in Harlowton who would know.

REP. LARSON asked the sponsor what the route of the first railroad into Montana was and if it went through Harlowton.

REP. CLARK said he believed it went down the Great Northern route.

REP. GALVIN said it was the Northern Pacific that was the first railroad to cross Montana, but didn't know if it was the first to enter the state.

REP. CLARK said the Milwaukee Railroad was not the first railroad.

CHAIRMAN ANDERSON asked if the proposed Montana Railroad Museum and Research Center "is in the making" or if it now exists.

REP. CLARK answered that they are now in the process of establishing the museum. He said the research will focus on railroad history.

CHAIRMAN ANDERSON asked who the "they" are.

REP. CLARK replied that "they" are the residents of Harlowton who are involved with and working on the museum.

Closing by Sponsor:

REP. CLARK thanked the chairman and the committee for considering the resolution.

HEARING ON SB 96

Opening Statement by Sponsor:

SEN. MIKE FOSTER, Townsend, Senate District 20, said that this bill has had an interesting history. After much deliberation, the Montana Department of Transportation (MDT) has dropped their opposition to the bill, so he asked the people of Neihart not to come all the way to Helena to testify, since he didn't expect any opposition.

SEN. FOSTER said the bill would enable local governments to request a speed study from the MDT with the goal of reducing the speed limit, and would prohibit the department from raising the speed limit using the study results as justification. He said it was a "common sense bill" and they worked hard to reach consensus with the Department.

REP. ROD MARSHALL said he had a fax from the City of Bozeman stating that the City of Bozeman, the MDT and the Senate have all agreed to approve HB 254, SB 96, and HB 249.

CHAIRMAN ANDERSON said they would go on record in support of these bills.

Proponents' Testimony: None

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. GALVIN referred to a letter to Timothy Reardon at the Montana Department of Transportation from Hank Honeywell, Federal Highway Administration, and read from the fourth paragraph where FHWA would seek repayment of the Federal-aid funds spent on a project if an arbitrary speed zone is reached without an engineering study. He wanted to know if this would affect the sponsor's bill. EXHIBIT 1

SEN. FOSTER said he didn't think so and believed the Department considered this when they dropped their opposition. He said they addressed the issue of having to conduct a speed study before they could change the speed limit. He said the MDT director said there has to be other mechanisms to change the speed limit. He said they would not be limited to how speed limits are changed.

REP. ROGER SOMERVILLE asked the sponsor if section 61-8-310 was eliminated and referred to HB 254.

SEN. FOSTER said there used to be some amendments to that section in the original bill, but they have been eliminated, so that part of the bill is struck. He said whatever is in statute now remains.

Closing by Sponsor:

SEN. FOSTER said he knew that there had been talk of mixing this bill in with some others. He strongly urged the committee not to seriously consider doing that. He said it should be a stand-alone bill and what that bill said would become law, but if it should get mixed in with other bills, "then I think we're going to have some problems."

REP. GALVIN asked if he wasn't specifying Neihart.

SEN. FOSTER said whatever community falls into the effective date of the bill would be affected. He said he'd appreciate their consideration of the bill and thanked the committee.

EXECUTIVE ACTION ON SB 96

Motion: REP. DON LARSON MOVED THAT SB 96 BE CONCURRED IN.

Discussion: CHAIRMAN ANDERSON asked the committee if they wanted to take executive action on this bill at this time. He said he thought it would be good to consider the three traffic speed bills together.

Motion/Vote: REP. DON LARSON MOVED THAT SB 96 BE CONCURRED IN.

Vote: The motion carried unanimously.

EXECUTIVE ACTION ON HJR 23

Motion: REP. LINDA MCCULLOCH MOVED THAT HJR 23 DO PASS.

Discussion: REP. GALVIN only wanted to say that it's a good idea.

REP. LARSON said he would vote against the resolution and while he thinks it's a good idea to start a railroad museum in Harlowton, he's uneasy about the Legislature designating a place "the" Montana Railroad Museum and Research Center. He said other places in the state share a rich railroad history with Harlowton, and he doesn't think the Legislature should prefer one location over another.

CHAIRMAN ANDERSON said he would vote against it because he thinks they should have more of a hearing and involve the communities more in the decisionmaking process. He said he didn't know if they should reward an area that couldn't keep their railroad over those that are going strong.

REP. JOE BARNETT said he will also vote against the resolution. He said the Union Pacific and the Northern Pacific crossed the state first and thinks West Yellowstone might be more appropriate and would receive more tourist traffic. He agreed that there should be a larger hearing and more input from other communities.

REP. BILL RYAN said that the bill only designates the museum's name and doesn't prevent other communities from establishing a similar facility. He said he didn't think the bill would mean that Harlowton could be the only spot for a railroad museum. He fully supported it.

HOUSE OF REPRESENTATIVES

Highways

ROLL CALL

DATE 02-15-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Shiell Anderson, Chairman	✓		
Rep. Rick Jore, Vice Chairman, Majority	✓		
Rep. Pat Galvin, Vice Chairman, Minority	✓		
Rep. Joe Barnett	✓		
Rep. Matt Brainard	✓		
Rep. Bob Clark	✓		
Rep. Charles Devaney	✓		
Rep. Marian Hanson	✓		
Rep. Don Larson	✓		
Rep. Rod Marshall	✓		
Rep. Linda McCulloch	✓		
Rep. Daniel McGee	✓		
Rep. Jeanette McKee <i>Late</i>	✓		
Rep. Bill Ryan	✓		
Rep. Dore Schwinden			✓
Rep. Roger Somerville	✓		
Rep. Joe Tropila	✓		
Rep. Jack Wells	✓		

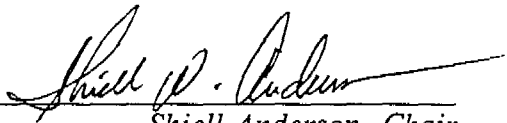


HOUSE STANDING COMMITTEE REPORT

February 16, 1995

Page 1 of 1

Mr. Speaker: We, the committee on **Highways and Transportation** report that **Senate Bill 96** (third reading copy -- blue) be concurred in.

Signed: 
Shiell Anderson, Chair

Carried by: Rep. Masolo

Committee Vote:

EXHIBIT 1

DATE 2/15/95

SB 96

HB 249

FILE
301 South Park Street
Room 448
Helena, Montana 59626

U.S. Department
of Transportation
Federal Highway
Administration
Montana Division

RECEIVED
MONTANA DEPARTMENT
OF TRANSPORTATION

FEB 02 1995
LEGAL SERVICES

February 2, 1995

013.1

Mr. Timothy W. Reardon
Chief Counsel
Montana Department of Transportation
Helena, Montana 59620

Dear Mr. Reardon:

Subject: Speed Limit Legislation

Your letter of January 31 requested our position on the possible impacts on Federal-aid funding due to recent proposals being considered in the Montana Legislature.

Based upon our review of the matter, we consider the current proposals to have significant effects on Federal-aid funding in Montana.

The references below basically require Federal-aid projects to be built in compliance with certain standards, one of which is the MUTCD. For speed zone signing, this means that an engineering and traffic study must be done, except where national required maximum speed limits (65 mph Interstate, 55 mph other roads) must be adhered to. Without this engineering study, it cannot be determined whether the signing meets the requirements of the MUTCD. Accordingly, FHWA cannot participate in the project. So, if a proposed project is to go through an area where an arbitrary speed limit has been set, FHWA could not participate in it unless an engineering study was made and speed limits were properly set. This, of course, can be a significant restriction on where MDT can program Federal-aid funds.

After a project is underway/complete, the regulations relating to the State-Federal Project Agreement serve as an enforcement tool to make sure the project is maintained by the State to the standards to which it was built. This includes adhering to the MUTCD and the traffic control, in this case speed zoning, that was in-place for that project. The speed zone signing cannot be revised unless an engineering and traffic study, in accordance with the MUTCD, is made. If an arbitrary speed zone is established, without the aid

funds expended on that project.

References from Federal law, regulation, and policies that we have relied are as follows:

1. 23 U.S.C. Section 109(d): "On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State highway department with the concurrence of the Secretary, who is directed to concur only in such installations as will promote the safe and efficient utilization of the highways."
2. 23 CFR Part 630, Subpart C - Project Agreements: Under Paragraph 630.303(b), "Project agreements, and modifications of and amendments thereto, shall evidence acceptance by the State highway agency of: (1) Conditions to payment of Federal funds as prescribed by Federal statutes and regulations;...."
3. 23 CFR Part 630, Appendix A: Paragraph 10, Parking Regulation and Traffic Control, "The State highway agency will not permit any changes to be made in the provisions for parking regulations and traffic control as contained in the agreement between the State and the local unit of Government referred to in the paragraph on "Additional Provisions," without the prior approval of the Federal Highway Administration, unless the State determines, and the Division Administrator concurs, that the local unit of Government has a functioning traffic engineering unit with the demonstrated ability to apply and maintain sound traffic operations and control.", and Paragraph 11, Signing and Marking, "The State highway agency will not install, or permit to be installed, any signs, signals, or markings not in conformance with the standards approved by the Federal Highway Administration pursuant to 23 U.S.C. 109(d) or the State's Certificate as applicable."
4. 23 CFR Part 655, Subpart F - Traffic Control Devices on Federal-aid and Other Streets and Highways:

Paragraph 655.601, Purpose:

"To prescribe the policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices on all streets and highways in accordance with the following references that are approved by the FHWA for application on Federal-aid projects: (a) Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA, 1988, as of March 1989...."

Paragraph 655.603, Standards:

"(a) National MUTCD. The MUTCD approved by the Federal

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Highway Administrator is the national standard for all traffic control devices installed on any street, highway, or bicycle trail open to public travel in accordance with 23 U.S.C. 109(d) and 402(a). The national MUTCD is specifically approved by the FHWA for application on any highway project in which Federal highway funds participate ...", and "(d)(2) New or reconstructed highways. Federal-aid projects for the construction, reconstruction, resurfacing, restoration, or rehabilitation of streets and highways shall not be opened to the public for unrestricted use until all appropriate traffic control devices, either temporary or permanent, are installed and functioning properly. Both temporary and permanent devices shall conform to the MUTCD." and "(d)(3) Construction area activities. All traffic control devices installed in construction areas using Federal-aid funds shall conform to the MUTCD...."

5. Manual on Uniform Traffic Control Devices, 1988 Edition, Section 2B-10, Speed Limit Sign:

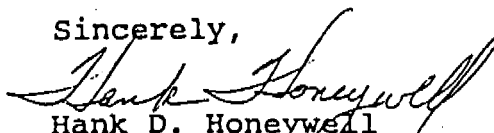
"The Speed Limit sign shall display the limit established by law, or by regulation, after an engineering and traffic investigation has been made in accordance with established traffic engineering practices. The speed limits shown shall be in multiples of 5 miles per hour.

In order to determine the proper numerical value for a speed zone on the basis of an engineering and traffic investigation the following factors should be considered:

1. Road surface characteristics, shoulder condition, grade, alignment and sight distance.
2. The 85-percentile speed and pace speed.
3. Roadside development and culture, and roadside friction.
4. Safe speed for curves or hazardous locations within the zone.
5. Parking practices and pedestrian activity.
6. Reported accident experience for a recent 12-month period." (underlining added for emphasis)

I hope this clarifies our position on Federal requirements for setting speed limits on Federal-aid projects, past and proposed.

Sincerely,


Hank D. Honeywell
Division Administrator

cc: HES-08 (Schertz)
cc: HRC-08 (Rippley)

(2) A provision of this chapter for which signs are required may not be enforced against an alleged violator if at the time and place of the alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state the signs are required, the section is effective even though no signs are erected or in place.

History: En. Sec. 33, Ch. 263, L. 1955; R.C.M. 1947, 32-2136; amd. Sec. 1, Ch. 217, L. 1989; amd. Sec. 1, Ch. 338, L. 1991.

Cross-References

"Authorized emergency vehicles" defined, 61-1-119.

61-8-202. Department of transportation to adopt sign manual. The department of transportation shall adopt a manual for a uniform system of traffic-control devices consistent with this chapter for use upon highways within the state. This uniform system shall correlate with and so far as possible conform to the manual on uniform traffic control devices, as amended.

History: En. Sec. 30, Ch. 263, L. 1955; amd. Sec. 1, Ch. 241, L. 1959; amd. Sec. 52, Ch. 116, L. 1974; R.C.M. 1947, 32-2133; amd. Sec. 1, Ch. 37, L. 1981; amd. Sec. 3, Ch. 512, L. 1991.

Cross-References

General powers of Department of Transportation, 60-2-201.

Examination of applicants for driver's

license, 61-5-110.

61-8-203. Department of transportation to sign all state highways. 1) The department of transportation shall place and maintain traffic-control devices, conforming to its manual and specifications, upon all state highways it considers necessary to indicate and to carry out this chapter and chapter 9 or to regulate, warn, or guide traffic.

(2) A local authority may not place or maintain a traffic-control device upon a highway under the jurisdiction of the department except by the latter's permission.

(3) Only the department may erect and maintain these traffic-control devices conforming to its manual and specifications on a controlled-access highway or controlled-access facility. The erection of a sign, marker, or emblem on a controlled-access facility or controlled-access highway by any other public authority, or agent, or by a private individual, firm, or corporation is unlawful and a misdemeanor and punishable as provided in 61-8-712.

(4) The erection or maintenance of a sign, marker, emblem, or traffic-control device on a state highway except a controlled-access highway or controlled-access facility, is subject to the rules and specifications the department adopts and publishes in the interest of public safety and convenience.

History: En. Sec. 31, Ch. 263, L. 1955; amd. Sec. 1, Ch. 224, L. 1959; amd. Sec. 53, Ch. 16, L. 1974; R.C.M. 1947, 32-2134(a) thru (d); amd. Sec. 3, Ch. 512, L. 1991.

Cross-References

Classification of offenses, 45-1-201.

"Misdemeanor" defined, 45-2-101.

General powers of Department of Transportation, 60-2-201.

Maintenance agreements with local governments, 60-2-204.

Vocational-technical center signs — location — specifications, 60-2-216.

Control of access, Title 60, ch. 5, part 1.

Erection of signs, 61-8-704.

Penalty for erection of unauthorized sign, 61-8-712.

61-8-204. Reward for information on injury to or removal of sign or marker. Upon conviction under the provisions of 61-8-713, any person who furnishes information to law enforcement officers leading to the arrest and conviction of the accused person shall be paid a reward from the state highway account in the state special revenue fund in the sum of \$100.

History: En. Sec. 2, Ch. 184, L. 1965; R.C.M. 1947, 32-2134.2; amd. Sec. 1, Ch. 277, L. 1983.

Fund structure, 17-2-102.

Cross-References

Rewards for apprehension of criminals, 7-32-2301.

61-8-205. Posting of penalties along highways. The department of transportation shall post notices of 61-8-713, and the penalties provided for, at locations designated by the department.

History: En. Sec. 3, Ch. 184, L. 1965; amd. Sec. 54, Ch. 316, L. 1974; R.C.M. 1947, 32-2134.3; amd. Sec. 3, Ch. 512, L. 1991.

Cross-References

General powers of Department of Transportation, 60-2-201.

61-8-206. Local traffic-control devices. Local authorities in their respective jurisdictions shall place and maintain such traffic-control devices upon highways under their jurisdiction as they may deem necessary to indicate and to carry out the provisions of this chapter or local traffic ordinances or to regulate, warn, or guide traffic. All such traffic-control devices hereafter erected shall conform to the state manual and specifications.

History: En. Sec. 32, Ch. 263, L. 1955; R.C.M. 1947, 32-2135.

Cross-References
Municipal regulation of trafficways and public grounds, 7-14-4102.

Powers of local authorities to regulate traffic, 61-12-101.

61-8-207. Traffic-control signal legend. Whenever traffic is controlled by traffic-control signals exhibiting the words "Go", "Caution", or "Stop" or exhibiting different colored lights successively one at a time or with arrows, the following colors only must be used and the terms and lights must indicate and apply to drivers of vehicles and pedestrians as follows:

(1) green alone or "Go":

(a) Vehicular traffic facing the signal may proceed straight through or turn left or right unless a sign at the place prohibits either turn. But vehicular traffic, including vehicles turning right or left, must yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time the signal is exhibited.

(b) Pedestrians facing the signal may proceed across the roadway within any marked or unmarked crosswalk.

(2) yellow alone or "Caution" when shown following the green or "Go" signal:

(a) Vehicular traffic facing the signal is warned that the red or "Stop" signal will be exhibited immediately thereafter and vehicular traffic may not enter the intersection when the red or "Stop" signal is exhibited.

(b) Pedestrians facing the signals are advised that there is insufficient time to cross the roadway, and a pedestrian then starting to cross shall yield the right-of-way to all vehicles.

way acquired in anticipation of such construction.

Effective Dates

1968 Act. Amendment by Pub.L. 90-495 effective Aug. 23, 1968, see section 37 of Pub.L. 90-495, set out as a note under section 101 of this title.

Authorization of Appropriations to Right-of-Way Revolving Fund; Apportionment; Reversion of Amounts Not Advanced or Obligated

Section 7(c) to (e) of Pub.L. 90-495 provided that \$100,000,000 for the fiscal year ending June 30, 1970, \$100,000,000 for the fiscal year ending June 30, 1971, and \$100,000,000 for the fiscal year ending June 30, 1972, be transferred from the highway trust fund to the right-of-way revolving fund established by subsec. (c) of this section, authorized the Secretary to apportion these funds and required that funds apportioned to a State remain available for obligation for advances until Oct. 1 of the fiscal year in which the apportionment was made and any funds not advanced or obligated by such date revert to the right-of-way revolving fund for distribution to other States.

Increased Limitation Period Applicable to Certain Contracts

Section 2 of Pub.L. 86-35 provided that agreements entered into before May 29, 1959 by the Secretary of Commerce and a State highway department under

authority of section 110(a) of the Federal-Aid Highway Act of 1956, or section 108(a) of title 23 of the United States Code shall be deemed to provide for actual construction of a road on such rights-of-way within a period of seven years following the fiscal year in which such request was made.

Study of Advance Acquisition of Rights-of-Way

Pub.L. 89-574, § 10, Sept. 13, 1966, 80 Stat. 769, as amended by Pub.L. 97-449, § 2(a), Jan. 12, 1983, 96 Stat. 2439, directed the Secretary of Transportation to make a full and complete investigation and study of the advance acquisition of rights-of-way for future construction of highways on the Federal-aid highway systems, with particular reference to the provision of adequate time for the removal and disposal of improvements located on rights-of-way and the relocation of affected individuals, businesses, institutions, and organizations, the tax status of such property after acquisition and before its use for highway purposes, and the methods for financing advance right-of-way acquisition by both the State governments and the Federal Government, including the possible creation of revolving funds for such purpose. The Secretary was required to submit a report of results of such study to Congress not later than July 1, 1967, together with his recommendations.

LIBRARY REFERENCES

Administrative Law

Revolving funds, see 23 C.F.R. § 130.401 et seq.

American Digest System

Highway funds, see Highways ¶99½.

Encyclopedias

Federal aid for highways, see C.J.S. Highways § 176.

WESTLAW ELECTRONIC RESEARCH

Highways cases: 200k[add key number].

See, also, WESTLAW guide following the Explanation pages of this volume.

NOTES OF DECISIONS

1. Persons entitled to maintain action

Environmental protective organization had standing to challenge Federal Highway Administration regulation allowing federal funding of acquisition of right-of-

way for federal aid highways in advance of any public hearing on location. National Wildlife Federation v. Snow, 1976, 561 F.2d 227, 182 U.S.App.D.C. 229.

§ 109. Standards

(a) The Secretary shall not approve plans and specifications for proposed projects on any Federal-aid system if they fail to provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.

(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State highway departments. Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by the Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such project. Such standards shall in all cases provide for at least four lanes of traffic. The right-of-way width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards. The Secretary shall apply such standards uniformly throughout all the States.

(c) Projects on the Federal-aid secondary system in which Federal funds participate shall be constructed according to specifications that will provide all-weather service and permit maintenance at a reasonable cost.

(d) On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State highway department with the concurrence of the Secretary, who is directed to concur only in such installations as will promote the safe and efficient utilization of the highways.

(e) No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper safety protective devices complying with safety standards determined by the Secretary at that time as being adequate shall be installed or be in operation at any highway and railroad grade crossing or drawbridge on that portion of the highway with respect to which such expenditures are to be made.

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SB 96 HB 249

other categories of projects. The FHWA Division Administrator shall also assure that energy efficiency is a basic objective in the design and construction of projects.

(b) The FHWA issuance of an authorization to proceed with the work on any phase of a highway project, including those under certification acceptance and secondary road plan, shall be in response to a request from the SHA. Authorization can be given only after applicable prerequisite requirements of Federal laws, and implementing regulations and directives have been satisfied, e.g., A-95 clearinghouse review and standards as prescribed by 23 U.S.C. 109.

(c) Authorizations to proceed subsequent to program approval for non-highway public mass transit projects are issued by the Urban Mass Transportation Administrator in accordance with 23 CFR part 810 (FHPM 6-3-4).

(d) The initial authorization to proceed with a phase of work shall be based on an approved item providing for that phase of work in a current program.

(e) Projects in urbanized areas can be authorized only after the responsible public officials or jurisdictions in which the project is located have been consulted and their views considered with respect to the corridor, the location and the design of the project.

(f) Authorization to proceed with a project may be given for a complete phase or phases of work, or a portion of a phase of work. Additional authorizations within the same phase(s) of work do not require further programing, if such authorizations are within the scope of the programed project and provide for a timely completion of the project.

(g) Federal funds shall not participate in costs incurred prior to the date of authorization to proceed.

(h) Authorization to proceed with work shall be deemed a contractual obligation of the Federal Government under 23 U.S.C. 106 and shall require the appropriate funds be available for the full Federal share of the cost of work authorized except as follows:

- (1) Advance construction projects.
- (2) Bond issue projects.

(3) The preliminary studies portion of the PE and ROW phase(s) (including hardship acquisition and protective buying) through the location stage (i.e., from the end of system planning through the selection of a particular location), when an SHA requests authorization with obligation of funds. The written notice to an SHA approving its request will contain the following statement: "Authorization to proceed shall not constitute any commitment of Federal funds, nor shall it be construed as creating in any manner any obligation on the part of the Federal Government to provide Federal funds for the undertaking." When a project has received an authorization as permitted above, subsequent authorizations beyond the location stage shall not be given until appropriate available funds have been obligated to cover the previous authorization.

(4) Where a State lacks either Federal funds or obligational authority, the approval to underfinance work may be given, but only with the understanding that the dollar amount of Federal-aid participation is limited to the amount committed at the time of fund obligation or the legal pro rata, whichever is less.

(5) In special cases where the Federal Highway Administrator determines it to be in the best interest of the Federal-aid highway program.

(i) No project shall be authorized that will result in the severance or destruction of an existing major route for non-motorized transportation traffic and light motorcycles, unless such project provides a reasonably alternate route or such a route exists.

[43 FR 34461, Aug. 4, 1978, as amended at 44 FR 46835, Aug. 9, 1979; 45 FR 58037, Aug. 29, 1980; 47 FR 47239, Oct. 25, 1982]

Subpart B—Plans, Specifications, and Estimates

AUTHORITY: 23 U.S.C. 106, 315; 49 CFR 1.48(b).

SOURCE: 43 FR 58564, Dec. 15, 1978, unless otherwise noted.

§ 630.201 Purpose.

The purpose of this subpart is to prescribe Federal Highway Administration (FHWA) procedures relating to the

preparation, submission, and approval of plans, specifications and estimates (PS&E), and supporting documents for Federal-aid projects.

§ 630.203 Applicability.

The provisions of this regulation apply to all highway construction projects financed in whole or in part with Federal-aid highway funds and to be undertaken by a State or political subdivision, except for projects carried out pursuant to 23 U.S.C. 117 relative to certification acceptance or a secondary road plan.

§ 630.205 Preparation, submission, and approval.

(a) The contents and number of copies of the PS&E assembly shall be determined by the FHWA.

(b) Plans and specifications shall describe the location and design features and the construction requirements in sufficient detail to facilitate the construction, the contract control and the estimation of construction costs of the project. The estimate shall reflect the anticipated cost of the project in sufficient detail to provide an initial prediction of the financial obligations to be incurred by the State and FHWA and to permit an effective review and comparison of the bids received.

(c) PS&E assemblies for Federal-aid highway projects shall be submitted to the FHWA for approval.

(d) The State highway agency (SHA) shall be advised of approval of the PS&E by the FHWA.

(e) No project or part thereof for actual construction shall be advertised for contract nor work commenced by force account until the PS&E has been approved by the FHWA and the SHA has been so notified.

Subpart C—Project Agreements

§ 630.301 Purpose.

The purpose of the regulations in this subpart is to prescribe the form and procedures for the preparation and execution of the project agreement required by 23 U.S.C. 110(a) for Federal-aid projects, except for forest highway projects pursuant to 23 U.S.C. 204, and for nonhighway public mass transit

projects pursuant to 23 U.S.C. 103(e)(4), 142(a)(2), and 142(c).

[39 FR 35348, Oct. 1, 1974]

§ 630.302 Definitions.

(a) The term *bond issue project* means a project authorized pursuant to 23 U.S.C. 122.

(b) The term *calendar day* means each day shown on the calendar but, if another definition is set forth in the State contract specifications, that definition will apply.

(c) The term *certification acceptance project* means a project which is constructed under the terms of a State Certification as authorized by 23 U.S.C. 117 and 23 CFR part 640.

(d) The term *contract time* means the number of workdays or calendar days specified in a contract for completion of the contract work. The term includes authorized time extensions.

(e) The term *Division Administrator* means the chief Federal Highway Administration (FHWA) officer assigned to conduct FHWA business in a particular State, the District of Columbia, or the Commonwealth of Puerto Rico.

(f) The term *Federal-aid highway project* means a project, other than an HP&R project, funded in whole or in part, with sums apportioned pursuant to Title 23, United States Code and section 203(d) of the Highway Safety Act of 1973.

(g) The term *highway planning and research project* (HP&R) means a project funded pursuant to 23 U.S.C. 307(c) and 104(f).

(h) The term *incentive/disincentive for early completion*, as used in this subpart, describes a contract provision which compensates the contractor a certain amount of money for each day identified critical work is completed ahead of schedule and assesses a deduction for each day the contractor overruns the incentive/disincentive time. Its use is primarily intended for those critical projects where traffic inconvenience and delays are to be held to a minimum. The amounts are based upon estimates of such items as traffic safety, traffic maintenance, and road user delay costs.

(i) The term *liquidated damages* means the daily amount set forth in the contract to be deducted from the contract

ice to cover additional costs incurred a State highway agency because of the contractor's failure to complete the contract work within the number of calendar days or workdays specified. The term may also mean the total of daily amounts deducted under the terms of a particular contract.

(j) The term *State highway agency* has the same meaning as that given for *State highway department* in 23 U.S.C.

(k) The word *workday* means a calendar day during which construction operations could proceed for a major part of a shift, normally excluding Saturdays, Sundays, and State-recognized legal holidays.

FR 35348, Oct. 1, 1974, as amended at 40 FR 91, Feb. 12, 1975; 40 FR 55639, Dec. 1, 1975; FR 31390, Aug. 20, 1987]

§ 630.303 Policy.

(a) The State highway agency shall prepare a project agreement for each Federal-aid highway, and highway planning and research project eligible for Federal-aid funding. An original agreement shall be prepared on FHWA Form PR-2 (appendix A), and amendments to or modification of such original agreement shall be prepared on FHWA Form PR-2A (appendix B). Agreements for projects under the National Cooperative Highway Research Program (NCHRP) shall be prepared on FHWA Form PR-2.1 (appendix C).

(b) Project agreements, and modifications and amendments thereto, shall have acceptance by the State highway agency of:

(1) Conditions to payment of Federal funds as prescribed by Federal statutes and regulations; and

(2) The amount of Federal funds obligated.

FR 35348, Oct. 1, 1974]

§ 630.304 Preparation of agreement.

(a) The purposes of the Form PR-2 are:

(1) To cover the various types of projects and kinds of work to be undertaken;

(2) To indicate the effective date governing reimbursement of the Federal share of eligible items of cost:

(3) To show the total amount of Federal funds obligated and under agreement for the project; and

(4) To set forth any special provisions relating to the project.

(b) The Division Administrator pursuant to his delegated authority shall on behalf of FHWA execute the project agreement of modification or amendment thereof when he is satisfied that the agreement, or modification or amendment thereof, is properly prepared and not at variance with any statutory or regulatory requirements pursuant to Federal laws.

(c) The Form PR-2 shall be utilized as follows:

(1) All information normally required for proper preparation of Form PR-2 can be placed on the first page of the form. All signatures will appear on that page in the spaces provided. Separate project agreements will be prepared for each successive improvement or independent class of work subject to Federal funding that is not to be performed contemporaneously with other work, between the same termini.

(2) Provisions 1 through 20 of Form PR-2 contain special provisions to apply to agreements for individual projects. The special provisions which apply to a particular project will be governed by the project identification determined in accordance with vol. 6, chap. 3, section 2 of the Federal-Aid Highway Program Manual. Those special provisions applicable to a particular project become automatically incorporated in the project agreement by means of such project identification.

(3) Space is provided on Form PR-2 for listing additional provisions applicable to a particular project. If necessary, attachments to Form PR-2 may be made. This space will also be utilized as follows:

(i) When Federal funds are to participate in the cost of constructing a toll facility, to reference the agreement required by 23 U.S.C. 129;

(ii) When a Federal agency is to undertake a Federal-aid project, to reference the agreement between the State and such Federal agency required by 23 U.S.C. 132, and to set forth the amount of the State deposit or payment to such Federal agency.

(iii) When a State is to undertake federally financed or assisted work on public lands highways (23 U.S.C. 209) or defense access highways (23 U.S.C. 210), to reference the applicable section of Title 23, United States Code.

(iv) When there is an agreement between the State and a local unit of Government with provisions for parking regulations and traffic control.

(4) For HP&R project, no entry will be made in the space labeled "COUNTY." For all other projects, the county or counties in which the project is located will be shown.

(5) The space labeled "PROJECT TERMINI" is for identifying the location of projects by termini, such as "three miles east of Excell to four miles west of Clark." The U.S., State, or county route number, if any, shall be shown, or indication given that the project is located on a county or local road. Engineering stations may not be used. Special Highway Planning and Research Projects shall be identified in this space by project type (National Pooled Fund Studies (NPFS)) or (Intra-Regional Cooperative Studies (IRCS)) and title of the study.

(6) The spaces under the heading "EFFECTIVE DATE OF AUTHORIZATION" will be utilized to show the date subsequent to which any item of cost set forth in the spaces specifically labeled under the heading "PROJECT CLASSIFICATION OR PHASE OF WORK" is eligible for Federal participation.

(7) The space labeled "OTHER" under the heading "PROJECT CLASSIFICATION OR PHASE OF WORK" will be used to set forth a project classification or class of work not specifically labeled in the spaces immediately above "OTHER."

(8) In the spaces labeled "APPROXIMATE LENGTH (Miles)" the length of preliminary engineering and construction work will be shown to the nearest tenth of a mile.

(9) In the space labeled "ESTIMATED TOTAL COST OF PROJECT" the sum of the estimated costs for all project classifications or classes of work set forth above in the agreement as applicable to the particular project will be entered. For construction work,

the contract price plus contingencies and/or the force account estimates approved by the Division Administrator.

(10) In the space labeled "FEDERAL FUNDS" the sum of the Federal funds for all project classifications or classes of work as applicable to the particular project will be entered. For bond issue projects and projects to be constructed in advance of apportionments pursuant to 23 U.S.C. 115, the amount entered will be based on an estimate of Federal funds to be subsequently apportioned. Any portion of a project being retained in a "programmed only" status shall not be included in a project agreement.

(d) The original agreement and one copy thereof will be executed by the proper officer of the State highway agency and forwarded to the Division Administrator for review and execution. The Division Administrator will retain the original agreement as part of the project status records. One executed copy will be returned to the State highway agency. When required by the regional office, a conforming copy will be sent to that office.

(e) HP&R agreements will be prepared and executed when the State has been authorized to proceed with the HP&R work program in whole or in part. If the agreement covers only a part of the work program, it shall be amended at the time or times when the State is authorized to proceed with the remaining part or parts. Agreement for Special Highway Planning and Research projects will be prepared and executed separately from the annual HP&R agreements.

(Approved by the Office of Management and Budget under control number 2125-0529)

[39 FR 35348, Oct. 1, 1974, as amended at 40 FR 55639, Dec. 1, 1975; 41 FR 33253, Aug. 9, 1976; 4 FR 33008, Aug. 20, 1984]

§ 630.305 Agreement provisions regarding overruns in contract time.

(a) Each State highway agency (SHA) shall establish specific liquidated damages rates applicable to projects in that State. The rates may be project specific or may be in the form of a table or schedule developed for a range of project costs and/or project types. These rates shall, as a minimum, be established to cover the estimated average

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(CE) costs associated with the type of work encountered on the project. The amounts shall be assessed by means of deductions, for each calendar day or workday overrun in contract time, from payments otherwise due to the contractor for performance in accordance with the contract terms.

(b) The rates established shall be subject to FHWA approval either on a project-by-project basis, in the case of project-specific rates, or on a periodic basis after initial approval where a rate table or schedule is used. In the latter case, the SHA shall periodically review its cost data to ascertain if the rate table/schedule closely approximates, at a minimum, the actual average daily CE costs associated with the type and size of the projects in the State. Where rate schedules or other means are already included in the SHA specifications or standard special provisions, verification by the SHA that the amounts are adequate shall be submitted to the FHWA for review and approval. After initial approval by the FHWA of the rates, the SHA shall review the rates at least every 2 years and provide updated rates, when necessary, for FHWA approval. If updated rates are not warranted, justification of this fact is to be sent to the FHWA for review and acceptance.

(c) The SHA may, with FHWA concurrence, include additional amounts as liquidated damages in each contract to cover other anticipated costs of project related delays or inconveniences to the SHA or the public. Costs resulting from winter shutdowns, retaining detours for an extended time, additional demurrage, or similar costs as well as road user delay costs may be included.

(d) In addition to the liquidated damages provisions, the SHA may also include incentive/disincentive for early completion provisions in the contract. The incentive/disincentive amounts shall be shown separately from the liquidated damages amounts.

(e) When there has been an overrun in contract time, the following principles shall apply in determining the cost of a project that is eligible for Federal-aid reimbursement:

(1) A proportional share, as used in this section, is the ratio of the final

contract construction costs eligible for Federal participation to the final total contract construction costs of the project.

(2) Where CE costs are claimed as a participating item based upon actual expenses incurred or where CE costs are not claimed as a participating item, and where the liquidated damages rates cover only CE expenses, the total CE costs for the project shall be reduced by the assessed liquidated damages amounts prior to figuring any Federal pro rata share payable. If the amount of liquidated damages assessed is more than the actual CE totals for the project, a proportional share of the excess shall be deducted from the federally participating contract construction cost before determining the final Federal share.

(3) Where the SHA is being reimbursed for CE costs on the basis of an approved percentage of the participating construction cost, the total contract construction amount that would be eligible for Federal participation shall be reduced by a proportional share of the total liquidated damages amounts assessed on the project.

(4) Where liquidated damages include extra anticipated non-CE costs due to contractor caused delays, the amount assessed shall be used to pay for the actual non-CE expenses incurred by the SHA, and, if a Federal participating item(s) is involved, to reduce the Federal share payable for that item(s). If the amount assessed is more than the actual expenses incurred by the SHA, a proportional share of the excess shall be deducted from the federally participating contract construction cost of the project before the Federal share is figured.

(f) When provisions for incentive/disincentive for early completion are used in the contract, a proportion of the increased project costs due to any incentive payments to the contractor shall be added to the federally participating contract construction cost before calculating the Federal share. When the disincentive provision is applicable, a proportion of the amount assessed the contractor shall be deducted from the federally participating contract construction cost before the Federal share calculation. Proportions are to be cal-

culated in the same manner as set forth in paragraph (e)(1) of this section.

[52 FR 31390, Aug. 20, 1987]

§ 630.306 Modification of original agreement.

(a) Form PR-2A (appendix B) shall be used for all amendments to or modifications of the original project agreement. Ordinarily, such modification will be needed only to increase the amount of Federal funds to cover approved changes. At the final voucher stage where modification is necessary only to provide for normal overruns or

underruns of previously estimated costs, no additional support is required. The final voucher will be sufficient for that purpose.

(b) If the modification is for the purpose of revising the estimated total cost of the project and the applicable Federal funds to cover changed conditions not provided for by change order approved by the Division Administrator, the reason therefor shall be set forth in the space headed "Other revisions."

[39 FR 35348, Oct. 1, 1974, as amended at 45 FR 55640, Dec. 1, 1975]

In the event the visibility of a STOP sign or a YIELD sign at any location is restricted, the sign shall be located as specified, and a Stop Ahead sign (sec. 2C-15) or a Yield Ahead sign (sec. 2C-16) shall be erected in advance of the STOP or YIELD sign.

Figures 2-2, 2-7a, 2-7b, and 2-7c (pages 2A-10 and 2D-16 to 2D-18) show typical STOP and YIELD sign installations.

2B-10 Speed Limit Sign (R2-1)

The Speed Limit sign shall display the limit established by law, or by regulation, after an engineering and traffic investigation has been made in accordance with established traffic engineering practices. The speed limits shown shall be in multiples of 5 miles per hour.

In order to determine the proper numerical value for a speed zone on the basis of an engineering and traffic investigation the following factors should be considered:

1. Road surface characteristics, shoulder condition, grade, alignment and sight distance.
2. The 85-percentile speed and pace speed.
3. Roadside development and culture, and roadside friction.
4. Safe speed for curves or hazardous locations within the zone.
5. Parking practices and pedestrian activity.
6. Reported accident experience for a recent 12-month period.

Two types of speed limit signs may be used: One to designate passenger car speeds including any nighttime information or minimum speed limit that might apply, and the other to show any special speed limits for buses and trucks. No more than three speed limits should be displayed on any one speed limit sign or assembly. Where a special speed limit applies to trucks or other vehicles, the legend TRUCKS 40, or such similar message as is appropriate, shall be shown below the standard



R2-1
24" x 30"



R2-2
24" x 24"

message or on a separate plate (R2-2). When used independently, the Truck Speed sign should carry a reference to SPEED or MPH.

Minimum speeds shall be displayed only in combination with the posted speed limit (sec. 2B-12).

Advisory Speed signs are treated under section 2C-35.

The standard Speed Limit sign shall be 24 × 30 inches. On expressways the sign should be at least 36 × 48 inches, with 48 × 60 inches prescribed for use on freeways.

2B-11 Night Speed Sign (R2-3)

Where different speed limits are prescribed for day and night, both the limits shall be posted. This may be done in either of two ways:

1. Immediately below the standard Speed Limit sign (R2-1) or combined with it, a Night Speed sign (R2-3) carrying the legend NIGHT 45 (or other suitable numerical limit) may be erected. In this case the numerals in the Night Speed sign and only the words SPEED LIMIT in the standard sign, should be reflectorized. As a special but logical exception to the general color scheme, the Night Speed sign should have its legend in white upon a black background.

2. A changeable message sign may be used, so that only the appropriate regulation is visible at a given time. The sign may have interchangeable panels, or reflectorization of the nighttime speed superimposed over the unreflectorized numerals of the daytime speed, to permit only the nighttime speed to become legible in the beam of motor-vehicle headlamps at night.



R2-3
24" x 24"

2B-12 Minimum Speed Sign (R2-4)

Where an engineering and traffic investigation shows that slow speeds on a highway consistently impede the normal and reasonable movement of traffic, signs may be used to post a minimum legal speed. Driving slower than the minimum limit is illegal except when necessary for safe operation or in compliance with the law. The minimum speed shall be displayed only in combination with the posted speed limit, and if desired, these two signs may be combined (R2-4a). The Minimum Speed sign shall have a standard, and minimum, size of 24 × 30 inches.